

## HOUSE OF REPRESENTATIVES.

FRIDAY, May 22, 1914.

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Great God, our Father, so strong, so pure, so generous, altogether self-sustaining, without whom we are nothing, continue Thy blessings and make us the instruments in Thy hands for the furtherance of Thy plans, that Thy will may be done in us, to the glory and honor of Thy holy name. In Christ Jesus our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

## INTERSTATE TRADE COMMISSION.

The SPEAKER. The House automatically resolves itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15613 and other bills, and the gentleman from Tennessee [Mr. HULL] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15613, and to consider other bills embraced in the special order, with Mr. HULL in the chair.

The CHAIRMAN. The Clerk will report the bill under consideration by title.

The Clerk read as follows:

A bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 7. That the several departments and bureaus of the Government, when directed by the President, shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this act, and shall detail from time to time such officials and employees to the commission as he may direct.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman in reference to this section to furnish information to the commission which provides that any of the departments or bureaus of the Government when directed by the President shall furnish to the commission upon its request all records, papers, and information in their possession relating to any corporation. Take the income-tax returns, which the law provides shall not be furnished. Now, this of course is a subsequent act. Will all of that information be furnished to this commission upon request?

Mr. COVINGTON. Not necessarily.

Mr. MANN. Under this it possibly might be.

Mr. COVINGTON. Not necessarily.

Mr. MANN. Well, "not necessarily," that is the question. Is not it necessarily furnished if the President so directs?

Mr. COVINGTON. I think that is true.

Mr. MANN. The income-tax returns are in the possession of a bureau of the Government, are they not?

Mr. COVINGTON. Yes.

Mr. MANN. And that is information relating to a corporation, if it is a corporation. That is perfectly clear. Now, here is a provision of the bill that requires that bureau to furnish any information in its possession to the trade commission if the President directs. I had supposed, under the law, that it was intended to provide that the income-tax returns should not be furnished some other branch of the Government for its use perhaps against the corporation.

Mr. COVINGTON. I think that is quite true. Those returns ought not to be furnished except, perhaps, in an extremely urgent case. The first draft of this section, as prepared by the committee, did not have in it the qualifying clause "when directed by the President." In the first draft of the section the provision as inserted was the same as the provision for the same purpose contained in the law creating the so-called Hadley Commission. That contained one of the broadest powers that has ever been conferred upon a commission to obtain from any of the bureaus or departments of the Government any information which it desired.

Mr. MANN. That is very true, but that was before the income-tax law was in effect.

Mr. COVINGTON. If the gentleman will hear me through. We then determined, however, that by limiting the authority to turn over such information by direction of the President, all the safeguards that ought to surround any class of information would be in the possession of the Government. And the gentleman has apparently overlooked the fact that the new income-tax

law itself expressly provides that all returns thereunder shall be open to inspection under the direction of the President.

Mr. STEVENS of Minnesota. Will the gentleman yield?

Mr. MANN. Yes.

Mr. STEVENS of Minnesota. Was not this matter presented to the committee as follows: When the corporation tax was first created by the act of 1910 there was a provision providing for some sort of general publicity to which there was very great objection by the business interests of the country, and at their suggestion an amendment was subsequently placed, I think, in some appropriation bill, which was substantially in the form in which section 7 appears, that some facts could be furnished to the public upon the order of the President. This has been very satisfactory, and the committee considered it a proper basis for the publicity of these same and similar facts covered by this section.

Mr. COVINGTON. That is correct.

Mr. STEVENS of Minnesota. And that was done at the request of the larger corporations that were interested.

Mr. COVINGTON. That is correct, and that was the guide.

Mr. MANN. Take another branch, take the census returns. We obtain certain information in selecting census statistics which probably we could not obtain under any other provision of the Constitution, with the understanding and statement that those returns would not be made public in the individual cases, but shall only be used in compilation. Under this the President might direct all this information to be turned over to the interstate trade commission and made public.

Mr. COVINGTON. I do not think that necessarily could be called an injury to business.

Mr. MANN. It necessarily follows it can be done under this provision of law.

Mr. COVINGTON. It necessarily follows that it might be possible for the President—

Mr. MANN. Possible and may are the same thing.

Mr. COVINGTON. The gentleman is linking together two improbable situations. The first is that the President would make a demand for a class of information that would not be useful, but would simply tend to harass, and in the thereafter that the commission, having obtained that information, would needlessly and to the harassment of business give it to the public. I do not think any President or any commission of any political party would combine to do that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that I may have five minutes more.

Mr. ADAMSON. Mr. Chairman, I do not like to deny the gentleman, but I have not consented for anybody to extend his time, and I will ask him to move to strike out the last word and go on.

Mr. MANN. Mr. Chairman, I will be very frank to say if we can not consider the bill I will insist upon there being a quorum present at all times.

Mr. COVINGTON. I was going to suggest—

Mr. MANN. It would not be in order for me to move to strike out any word.

Mr. TOWNER. I suggest to the gentleman from Georgia that he only, of course, expected that would apply to yesterday, and certainly not to to-day, and certainly not to important amendments such as I hope to present for consideration, and which it would be absolutely impossible to present to the committee in five minutes.

Mr. ADAMSON. Mr. Chairman, I am not responsible for the rules, and if gentlemen see proper to make a point of order of no quorum I can not help it. It is the duty of Members to be here, anyhow. I do not propose to be deterred in my duties by a point of no quorum. I will yield to the gentleman from Illinois [Mr. MANN] as quickly as to anybody in the world, but I have never consented to more than five minutes to individual Members under the five-minute rule. I am willing for the gentleman to withdraw the pro forma amendment and enter another.

Mr. MANN. Under the usual custom, I think we ought to have a quorum present. If the bill is to be rammed through, I am willing; but we ought to have a quorum here.

Mr. ADAMSON. I suggested the way out, but if the gentleman wants the delay, all right.

The CHAIRMAN. Does the gentleman from Illinois [Mr. MANN] make the point of no quorum?

Mr. MANN. I do.

Mr. ADAMSON. If the gentleman will withdraw the pro forma amendment and offer another—

Mr. MANN. Under the rules I am not permitted to do that.

The CHAIRMAN. The point of order is well taken, and the Clerk will call the roll.

The roll was called and the following Members failed to answer to their names:

Alken	Fergusson	Lafferty	Rayburn
Ansberry	Finley	La Follette	Reilly, Conn.
Anthony	Flood	Langham	Reilly, Wis.
Barchfeld	Fordney	Langley	Riordan
Bartholdt	Gallivan	Lee, Pa.	Roberts, Mass.
Bell, Ga.	Gard	L'Engle	Roberts, Nev.
Bowdle	Gardner	Lenroot	Rogers
Brown, W. Va.	George	Levy	Rothermel
Browning	Gillett	Lewis, Md.	Rupley
Bruckner	Godwin, N. C.	Lewis, Pa.	Sabath
Brumbaugh	Goeke	Linbergh	Scully
Burgess	Goldfogle	Lindquist	Seidomridge
Burke, Pa.	Gudger	Loft	Sells
Butler	Guernsey	McClellan	Shackleford
Callaway	Hamill	McCoy	Sharp
Cantor	Hamilton, N. Y.	McGillcuddy	Sherley
Cantrill	Hammond	Mahan	Shreve
Carew	Hardwick	Maher	Slayden
Carlin	Hart	Manahan	Slemp
Casey	Hawley	Martin	Small
Clark, Fla.	Hayes	Merritt	Smith, J. M. C.
Clayton	Hedlin	Metz	Smith, Tex.
Coady	Helvering	Morin	Stanley
Connolly, Iowa	Hobson	Moss, Ind.	Steenerson
Copley	Howell	Mott	Stephens, Miss.
Cramton	Hoxworth	O'Brien	Stringer
Crisp	Hughes, W. Va.	Oglesby	Taylor, Ala.
Dale	Humphreys, Miss.	O'Hair	Townsend
Defenderfer	Johnson, S. C.	O'Leary	Tuttle
Driscoll	Jones	Pace, N. C.	Underhill
Dunn	Keating	Palmer	Underwood
Eagle	Kelley, Mich.	Patton, Pa.	Wallin
Edmonds	Kennedy, Conn.	Peters, Me.	Whaley
Elder	Kirkald, Nebr.	Phelan	Whitacre
Esch	Kirkpatrick	Platt	Wilson, N. Y.
Estopinal	Konop	Porter	Winslow
Faison	Korbly	Pou	
Farr	Kreider		

Thereupon the committee rose; and the Speaker having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill H. R. 15613 and other bills, finding itself without a quorum, he caused the roll to be called, and that 284 Members answered to their names—a quorum—and he presented a list of the absentees to be entered on the Journal.

The committee resumed its session.

Mr. ADAMSON. Mr. Chairman, I wish to assure the gentleman from Illinois [Mr. MANN] that I have no disposition in the world to prevent free, adequate, and full debate on any proposition that needs elucidation, and if it is stated on what particular section additional debate is required, I have no doubt that we can agree on any proposition for additional time.

Mr. MANN. The statement of the gentleman is satisfactory as to what will be done when we reach those provisions.

Mr. MURDOCK. Will the gentleman from Georgia yield to me?

Mr. ADAMSON. Of course.

Mr. MURDOCK. When we reach section 9—

Mr. ADAMSON. Of course I will make any agreement or any proposition for fair debate which the gentleman thinks deserves further debate, under the five-minute rule. I do not think it is proper, in the management of a long bill, to discriminate between individuals who may ask for extension under the rule. I think my plan will give satisfaction.

Mr. MANN. Mr. Chairman, I move to strike out, on page 6, beginning with line 20, the language:

And shall detail from time to time such officials and employees to the commission as he may direct.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 6, line 20, strike out the following language: "And shall detail from time to time such officials and employees to the commission as he may direct."

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized.

Mr. MANN. Mr. Chairman, this provision, which is an incidental provision in the bill, authorizes the President to detail employees to this commission from the various departments and bureaus of the Government. A similar provision is in the law, as I recall, in reference to the Interstate Commerce Commission, and a similar provision is in the law in reference to employees of the White House, and, I think, very properly in that case. But the provision absolutely destroys the power of Congress over appropriations for a particular bureau. Congress is quite capable, in my judgment, of making appropriations for the personal services of the employees in any branch of the public service; but when you put into the law a provision that after you have made an appropriation for this commission the President may at will—and, of course, that means that he will do so at the request of the commission—transfer to this commission from any other bureau or department of the Gov-

ernment employees and officials, you leave no power by Congress over the employees in this interstate trade commission.

It has not been conducive to economy in the Interstate Commerce Commission. I do not believe in inserting in any law creating a new branch of the Government the power to transfer from other bureaus to the new bureau such officials and employees from other departments as may be requested, because then we shall have left within our control no power over the amount of money which shall be expended or the number of employees who shall receive compensation.

Mr. GORDON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Ohio?

Mr. MANN. Certainly.

Mr. GORDON. I recognize the evil to which the gentleman refers, but could not the Congress in making the annual appropriation limit the number of employees which might be transferred or limit the appropriation for the payment of employees that might be transferred upon the order of the President?

Mr. MANN. Practically it could not; theoretically, of course, it could. If it was a change of law, it would be subject to a point of order. But you can not, after every appropriation for each bureau or department of the Government, insert a provision limiting the number of employees that may be transferred from that bureau or department. Theoretically you can, but practically you can not put that language in 100 or 500 different places in an appropriation bill.

Mr. McKENZIE. Mr. Chairman, will my colleague yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MANN. Certainly.

Mr. McKENZIE. What I would like to ask my colleague is this: That in the case of a transfer from one department to another it does not follow that the salary of the person transferred will be increased. Now, what I want to know is from what department would that individual draw his salary?

Mr. MANN. Why, from the department to which he was first assigned, not from this new bureau to which he might be transferred.

Mr. McKENZIE. If that is true—

Mr. MANN. It is true.

Mr. McKENZIE. If that is true, would there be any trouble about this?

Mr. MANN. Certainly. Here you appropriate money for the Department of Agriculture, for example, for certain purposes and certain employees, and under this provision those officials, while they are paid by the Department of Agriculture out of appropriations for the Department of Agriculture, may be transferred to work in this division and no account of it kept, so far as we are concerned.

Mr. McKENZIE. Would that work any hardship on the people?

Mr. MANN. That depends on whether it is extravagant or not. It takes away wholly from Congress the power to regulate the number of employees in any of these bureaus.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. COVINGTON. Mr. Chairman, the gentleman from Illinois [Mr. MANN] has admitted that this power now rests with the Interstate Commerce Commission. The fact is that with the proposed interstate trade commission there is vastly more necessity for the exercise of such power, and the gentleman from Illinois [Mr. McKENZIE] has rather accurately measured the true situation. This house knows that there is never an appropriation made for an employee in one of the bureaus of this Government by the Committee on Appropriations unless that bureau satisfies the committee that in the normal performance of the functions of the bureau the employee is needed.

Now, then, if in some special investigation, covering a limited period of time, there is a necessity for the sort of a special expert who is already on the pay roll of the Government to aid an investigation by the Interstate Trade Commission, rather than have that commission go outside and obtain a new bureau employee, the commission ought to have his service. A specialist who is drawing a salary from the Government, and who may have that peculiar knowledge which ought to be at the disposal of the commission, is the proper person to be detailed to render service to the commission wherever it is possible to use him. It is for that reason that we followed the language of the existing act to regulate commerce and give this commission opportunity to have, through the President, such experts available.

Mr. MADDEN and Mr. McKENZIE rose.

The CHAIRMAN. To whom does the gentleman yield?

Mr. COVINGTON. I will yield to the gentleman from Illinois [Mr. McKENZIE] first.

Mr. MCKENZIE. If the President is not permitted to detail men as provided by this bill, would it not be necessary, then, for the commission to appoint, as they have the power to do under this bill, employees that they will be unable to get along without? And in that way will it not be economy to the Government to have this provision remain in the bill?

Mr. COVINGTON. That is actually the fact, and it was in order to minimize the number of such employments necessary outside of the existing bureaus of the Government service that that provision was inserted.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read. But, first, does the gentleman from Nebraska [Mr. SLOAN] desire to offer an amendment? It seems the gentleman is not here. The Clerk will read.

The Clerk read as follows:

Sec. 8. That the commission may from time to time make rules and regulations and classifications of corporations for the purpose of carrying out the provisions of this act.

The commission may from time to time employ such special attorneys and experts as it may find necessary for the conduct of its work or for proper representation of the public interest in investigations made by it; and the expenses of such employment shall be paid out of the appropriation for the commission.

Any member of the commission may administer oaths and affirmations and sign subpoenas.

The commission may also order testimony to be taken by deposition in any proceeding or investigation pending under this act. Such depositions may be taken before any official authorized to take depositions by the acts to regulate commerce.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this act or any order of the commission made in pursuance thereof.

Mr. TOWNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. TOWNER:

Page 6, line 23, strike out all of lines 23, 24, and 25 and insert the following: "For the purpose of enabling it the better to carry out the purposes of this act, the commission may from time to time classify the corporations subject to its jurisdiction, and may prescribe a period of time within which any class of such corporations shall adopt, as nearly as may be, a uniform system of accounts and the forms of such accounts. After the expiration of the prescribed period the corporations included in such class shall keep uniform accounts in the manner prescribed by the commission. In case of failure or refusal of any such corporation to keep accounts in the manner prescribed by the commission, such corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure or refusal, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States."

"Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memorandum kept by a corporation subject to the jurisdiction of the commission, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memorandum, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions pertaining to the corporation's business shall be deemed guilty of a misdemeanor, and shall be subject upon conviction in any court of the United States of competent jurisdiction to a fine of not less than \$1,000 nor more than \$5,000, or imprisonment for a term of not less than one nor more than five years, or to both such fine and imprisonment: *Provided*, That the commission may, in its discretion, from time to time issue orders specifying such accounting or financial papers, records, or documents of corporations or of any class of corporations as may be destroyed after the expiration of a period of time prescribed in such order."

Mr. MANN. Mr. Chairman, would the gentleman from Georgia [Mr. ADAMSON] be willing to enter into an agreement as to the time for debate on this amendment?

Mr. ADAMSON. How much time would the gentleman like?

Mr. MANN. Ten minutes on a side.

Mr. MADDEN. I would like to have five minutes.

Mr. MANN. Then, say 15 minutes on a side, to be controlled by the gentleman from Minnesota [Mr. STEVENS] on this side.

Mr. ADAMSON. That is on section 8; 30 minutes on section 8, 15 minutes to a side.

Mr. TOWNER. Not on the section, but on this amendment.

Mr. MANN. On this amendment.

Mr. ADAMSON. I will control 15 minutes and the gentleman from Minnesota [Mr. STEVENS] 15 minutes.

The CHAIRMAN. Does the gentleman's proposition refer to the section or to the amendment?

Mr. ADAMSON. Make it cover the section and the amendments thereto.

Mr. MANN. Make it on the section.

Mr. MORGAN of Oklahoma. I should like to have some time.

Mr. ADAMSON. How much time does the gentleman from Oklahoma want?

Mr. MORGAN of Oklahoma. Five minutes.

Mr. MANN. Let it be 20 minutes on a side on the section.

Mr. ADAMSON. Yes; let it be 20 minutes on a side on this section.

The CHAIRMAN. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent that all debate on this section and amendments thereto shall close in 40 minutes—20 minutes to be controlled by the gentleman from Minnesota [Mr. STEVENS] and 20 minutes by the gentleman from Georgia, himself.

Mr. MORGAN of Oklahoma. Mr. Chairman, may I offer my amendment and have it considered pending?

The CHAIRMAN. Without objection, the gentleman will offer the amendment and have it read for information.

There was no objection.

The CHAIRMAN. The Clerk will report it.

The Clerk read as follows:

Mr. MORGAN of Oklahoma moves to amend section 8, on page 6, by striking out lines 23, 24, and 25, and inserting in lieu thereof the following:

"Sec. 8. The commission is hereby authorized and empowered to make and establish rules and regulations not in conflict with the Constitution and laws of the United States to aid in the administration and enforcement of the provisions of this act, and may by such rules and regulations prohibit corporations subject to the provisions of section 9 of this act in conducting their business from engaging in any practice or from using any method or system, or from pursuing any policy or from resorting to any device, scheme, or contrivance that constitutes unfair competition or unjust discrimination as between competitors, individuals, or communities."

Mr. STEVENS of Minnesota. Mr. Chairman, I will yield 10 minutes to the gentleman from Iowa [Mr. TOWNER], 5 minutes to the gentleman from Oklahoma [Mr. MORGAN], and 5 minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. TOWNER. Mr. Chairman, this amendment is merely for the purpose of placing in this bill a provision analogous to that which is contained in the act conferring powers upon the Interstate Commerce Commission.

I am aware of the fact that the committee had this proposition before them and considered it. I presume carefully, and rejected it. However, I am of the opinion, upon a careful investigation and reading of the hearings, that this bill is absolutely incomplete and will be almost futile in its results unless this provision or one equivalent to it is incorporated in the bill.

Mr. Chairman, in section 9 the power is given to the commission to require annual reports from the corporations that may be engaged in interstate trade, but there is no method by which there can be any ascertainment of the basis on which these reports are made, unless we shall also incorporate into this bill a section which will require an accounting. For this reason it is one of the elements always necessary in the consideration of questions such as those which this commission will be required to pass upon to ascertain particular facts with regard to the operation of the business of a corporation. For instance, it is necessary to ascertain what are the facts with regard to the cost of operation and with regard to all the costs that are paid for the material that makes up the total product of the trade corporation.

They will make their reports to the commission as required by law, but the basis on which those reports are made can not be ascertained except by an expert inquiry, which will be almost futile unless this accounting also is required. The commission will find an absolute necessity for the requirement of accounting if they are to determine as to the correctness or the truth of the reports that are made. That necessity was experienced by the Interstate Commerce Commission. For years they could make no progress with regard to their work because of the fact that they had not the power to require a system of uniform accounting with regard to the essentials which it was necessary for them to have before they could act. A report is all right, but when it comes to ascertaining the correctness of the report, if the books are kept in such a manner that it is impossible to ascertain how correct they are, then gentlemen will see at once the necessity for the requirement of an accounting. For instance, in those reports that were sent to the Interstate Commerce Commission the railroad companies would report lump sums paid for the supplies, but when you came to look to find out where the records were kept with regard to those supplies they were not to be found or were so concealed by the system of bookkeeping that it was impossible to ascertain the truth regarding them.

Now, in the requirements for an accounting it is unnecessary that the commission should formulate a system of bookkeeping for each one of the classes of these corporations, as seems to have been the idea of some of those who testified before the commission, and as is probably the idea of the committee that reported this bill. It is not necessary that there should be an

accounting upon any proposition that the commission do not think absolutely necessary and essential to a fair examination and for the purpose of determining the correctness of the report. But the proposition for reporting will be almost futile with regard to the very things which the corporation will desire to conceal unless you can have the power in the hands of the commission to require an accounting which shall make plain from day to day the various transactions of which they think it will be necessary to know in order to ascertain whether or not a fair business transaction or an unfair one is before them; whether a violation of law is concealed by a system of bookkeeping; whether or not the system of bookkeeping adopted by the particular corporation is devised for the purpose of deceiving both the commission, the public, and the stockholders, and perhaps even the directors.

We know from our experience with regard to these matters that there is an absolute necessity of ascertaining the facts, and if you do not require, in the particular things which the commission may desire to know from day to day, the items and the methods of setting down and of accounting that shall be necessary to ascertain whether or not the law is being violated—if you do not require these things, then the mere formal report at the end of the year will be absolutely useless. It will be necessary for the Government to send armies of experts all over the United States to ascertain whether or not the reports are correct.

Of course it is not expected that all of these books shall be examined. The commission will not go for the purpose of examining books unless they find it necessary; but when they do find that it is necessary, then the essentials that they shall certify, that they shall think necessary for the protection of the public and for the purpose of carrying out the provisions of the law—these essentials must be fairly kept and an accounting made regarding them, so that the inspection may be accurate and full and the truth be obtained.

Mr. Chairman, this bill is only one-half of a bill without an accounting system. There can be no real benefit from reports to be made unless there shall be a basis on which the reports can be made.

It was said in the hearings before the committee by somebody who testified that this will be a great burden upon the corporations. That was said by the railroad companies when this duty was imposed upon them. Now, however, the railroad companies themselves can see the advantage of a uniform system of accounting upon essentials, upon the things that are absolutely necessary to know. The railroads themselves are benefited by doing it. (Publicity being the essential of the establishment of this trade commission, there can be no real publicity unless you establish a system of accounting. I think the amendment which I have proposed will do that.)

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. TOWNER. I will.

Mr. STEPHENS of Texas. I desire to ask the gentleman if he does not think that section 8 is sufficiently strong to permit the commission to make rules and regulations as to the manner in which the accounts shall be kept?

Mr. TOWNER. No; I do not. I have examined section 8 carefully, and it is not within the power of the commission under the language of that section to make rules and regulations for the commission. That is not what is intended. It is only with regard to the classification of corporations for the purpose of carrying out provisions of the act. The rules and regulations which the commission may make are limited to the classification. The gentleman can at once see that that language could not possibly authorize an accounting necessary upon which to report the business. The rules and regulations are only with regard to the classification of corporations and can have no reference whatever to the requirements for reports.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. ADAMSON. I yield five minutes to the gentleman from Minnesota [Mr. STEVENS].

Mr. STEVENS of Minnesota. Mr. Chairman, I think the committee at first sympathized unanimously with the gentleman from Iowa [Mr. TOWNER], after the testimony of Mr. Brandeis, and that there should be contained in the measure some uniform system of accounting. But after we heard the witnesses who knew about the practical affairs in the world of business and how the uniform accounting system would work in everyday affairs, most of the committee became opposed to such a provision as suggested by the gentleman from Iowa.

The reason is this: A uniform system of accounting as to railroad companies is a practical sort of direction, for the reason that it regulates one particular line of business of a similar character all over the country. In industrial corporations the

situation is entirely different. Each line of business is separate and distinct by itself, and each business represents the individual enterprise and policy of its own management; and all of them in such class could not and should not be compelled to adopt the same line of report, because it detracts from the individual efficiency of the management of the corporation. It does not enable them to do the best they can to fill the particular place in the world for which it is best adapted. For the reason, first, that it has been shown that such a requirement clearly would be misleading because it would not show the actual facts and the real condition of affairs in the various business corporations.

Mr. FALCONER. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. FALCONER. Why not classify the different kinds of business as you do in the workmen's compensation act?

Mr. STEVENS of Minnesota. The amendment provides for that. The classification would not help us, for the reason that each individual business, in order to be effective, must be conducted in a way suitable for that particular situation; the supply of raw material, the market there must be, the class of labor it must have, the conditions as to transportation and handling the product—all of the factors of that sort are so entirely different in the various business concerns that a system which would be suitable for one corporation would not at all fit a corporation in another place.

The result would be that such a system of uniform accounting would not show the facts, but would be misleading, and it would tend to unfortunate inefficiency in the daily work of the business concerns. It would increase the cost of production and diminish the individual initiative in the management of concerns under such a plan. It would be a regulation that would be a serious impediment to business affairs of the country at the present time. This was clearly shown to your committee by the testimony of men of large practical experience and genuine sympathy with the purposes of this bill.

Mr. Brandeis in his testimony showed clearly that if we provided now a uniform system of accounting it could not be made fully effective for nearly 20 years. The result of such a direction would be a wet blanket over the business affairs of this country which would not help anyone for a generation, even on his own theory—the enlightenment of the public as to the business affairs of the corporations doing an interstate business.

Mr. TOWNER. Will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. TOWNER. I want to ask the gentleman if he does not think that if Congress should leave the entire thing to the discretion of the commission as to what they would require it would not lead to an entire reorganization of a uniform system of bookkeeping—if it would not only apply to such things as the commission thought it should apply to?

Mr. STEVENS of Minnesota. Yes; these witnesses showed that the same result and the same facts could be obtained better by a system of annual and special reports; that the same facts and same results could be obtained in a much better way and a much clearer way by a requirement for a plan of reports; and such would show the conditions as they exist in that class of business and would help the commission to properly perform its functions.

Then one other fact appeared which to us was of great consequence. These corporations are chartered by the States. Very many of the States lay down legislative rules as to how the corporations should be conducted, as to the methods, schemes of accounting, and so forth. Mr. Brandeis testified that the State of Massachusetts did, and other States undoubtedly do, provide a requirement which practically means a system of uniform accounting as to such State corporations. If this be so, then this proposition would repeal practically every system of accounting provided by the States. Section 20 of the interstate-commerce law, which is a provision for uniform accounting in interstate commerce, has been held not only constitutional, but to be exclusive and to replace all the State systems. I know the gentleman does not desire that, as he would see that such a plan might be disastrous as to many local concerns. Yet such would be the situation. The Supreme Court has construed the existing law so that no railroad can keep any books or memoranda except what is prescribed by the Federal law. So the States are helpless in interstate transportation and would be worse than helpless under the amendment of the gentleman from Iowa.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MORGAN of Oklahoma. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MORGAN of Oklahoma. Will a vote be taken on this amendment before I address the committee on the amendment I have proposed?

The CHAIRMAN. The gentleman is recognized now for the purpose of consuming his time, if he so desires.

Mr. MANN. Let us have a vote on the other amendment first.

Mr. ADAMSON. Does any gentleman desire to speak for or against the amendment offered by the gentleman from Iowa [Mr. TOWNER]?

Mr. MADDEN. Mr. Chairman, I would consider it just as wise to take a chimney sweep and order him to make a watch, or a painter to make an engine, or a doctor to build a ship, or a preacher to manage a bank, or a sculptor to try a lawsuit, or a sewer builder to navigate the air, or a mere infant to improve on Edison's discoveries in electricity as I would to attempt to establish by law throughout all the systems of business in the United States a uniform system of accounting. [Laughter.] It is not fair to suppose that any commission that would be appointed could have sense enough or wisdom enough to know more than all of the men engaged in all of the lines of industry in the United States know now about how their accounts ought to be kept. It is not fair to suppose that we are going to establish a commission and appoint men to that commission who are all-wise, who are going to learn all about the intricate details of every line of business within 10 minutes after they assume the responsibilities under their appointment. It is not fair to assume that the men who are engaged in the business life of the Nation are all crooks and that they keep their accounts to cover up their iniquities.

It is fair, however, to assume that every man engaged in the business life of the United States is an expert, that he is engaged in the business in which he is engaged because of the knowledge of that business which he possesses, and it is fair to assume that every man in a line of business specializes in the particular line and knows more about it than anybody else would know. It is fair to assume that everybody keeps the accounts of his business because he wants a record of the transaction, and it is fair to assume that the records of the transactions in every line of business must be of a different character, that you can not establish any uniform system of accounting except in one particular line of business. You can establish a uniform system of accounting for banks or for railroads, but you can not establish a uniform system of accounting for erecting buildings, for making the brick that go into the buildings, or digging the foundation in which the material is laid and upon which the building is to be erected. You can not establish a uniform system of accounting for building ships that will conform to the system of accounts that must be kept in the conduct of a bank. You can not establish a uniform system of accounting in the business activities of the United States without throwing every line of business into consternation, and to invade the office privacy of the men who are engaged in the business activities of the United States to the extent of attempting to establish a uniform system of accounting, in my judgment, is not the province of Congress, and Congress ought not to enter upon any such activity.

Mr. GOOD. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. GOOD. Does the gentleman contend that men engaged in digging a foundation for a building would be engaged in interstate commerce?

Mr. MADDEN. They would be to this extent, that they might be connected with interstate commerce because the material that goes into the foundation might pass from one State to another. Mr. Chairman, we do not deal with a particular transaction, we deal with the whole question. We deal with the volume of business. We deal with the things that enter into interstate commerce. We deal with the question over which we propose to take jurisdiction, and I assume that we do not segregate the particular items that enter into a transaction, but we take the whole transaction as it is completed. And to tell me that you can appoint any commission that will be all-wise and that will be able to assume responsibility for the method of keeping accounts in all lines of technical details of great businesses, complicated by scientific and mechanical art, is to say that the Congress of the United States has a wisdom beyond that which is possessed by all of the people who send us here.

I believe that no such amendment ought to be placed in the bill. I believe we want to establish confidence in the minds of the business public. We have done so many things to take away the confidence of the people in the wisdom of the Congress that we ought not to add this other complication by requiring them to establish a uniform system of accounting in all

of the varied lines of business conducted throughout the United States. [Applause.]

Mr. ADAMSON. Mr. Chairman, I yield five minutes to the gentleman from Virginia [Mr. MONTAGUE].

Mr. MONTAGUE. Mr. Chairman, I wish to corroborate the statement of the gentleman from Minnesota [Mr. STEVENS], that the committee gave very careful consideration to this amendment to classify corporations and impose a uniform system of accounts. I wish to suggest to this committee that this is a very extraordinary venture. It is a subject that may be, and doubtless will be, considered by the commission, which in turn will doubtless report upon its feasibility, its practicability, and its desirability.

As for myself, I look upon the efforts to inject the power of this Nation into the individual business of accounting of the corporations in our several States as one of the most imperialistic steps that could possibly be taken, and you gain nothing by it but confusion worse confounded. You would terrorize the business of the Nation, you would impair initiative in business. Mark you, gentlemen, we should do nothing that would prevent the progress and productivity of business. Production must constantly equal or exceed population, or we will have to introduce the Malthusian doctrine to reduce population or go backward. This whole question of accounting, I submit, is one to be primarily considered by this commission, and upon its recommendations we could determine its expediency and its wisdom; but as it strikes me now, as it struck me at first thought, to take a national institution and project it into the accounting of the business of the various corporations, conflicting, as the gentleman from Minnesota [Mr. STEVENS] has suggested, with the regulations of the corporations by State laws, and at one stroke to require a uniform system of accounting where there can be no uniformity; to require a uniformity of accounting when in the nature of things there must be diversity, and to do that in advance of any work by this commission or reports from it, would be, it seems to me, very intemperate and unwise legislation. [Applause.]

Mr. ADAMSON. Mr. Chairman, I reserve the remainder of my time until I hear from the gentleman from Oklahoma [Mr. MORGAN], and I ask for a vote on the amendment offered by the gentleman from Iowa.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Iowa.

The question was taken; and on a division (demanded by Mr. MURDOCK) there were—ayes 15, noes 71.

So the amendment was rejected.

Mr. COVINGTON. Mr. Chairman, a parliamentary inquiry. How much time is remaining?

The CHAIRMAN. Ten minutes are remaining to the credit of the gentleman from Georgia and five minutes to the credit of the gentleman from Minnesota.

Mr. MORGAN of Oklahoma. Mr. Chairman, before I begin I ask unanimous consent that my amendment may be again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment offered by the gentleman from Oklahoma.

There was no objection, and the Clerk again reported the amendment.

Mr. MORGAN of Oklahoma. Mr. Chairman, under section 8, which says that the commission, from time to time, may make rules and regulations and classifications of corporations for the purpose of carrying out the provisions of this act—under that section the commission has very limited power to make rules and regulations, because under the provisions of the act the commission virtually has no power to enforce laws or to regulate the practices of corporations subject to the provisions of the bill. Now, the amendment which I have offered gives to the commission the power to make rules and regulations that would prohibit specifically the particular practices which constitute unfair competition or unfair discrimination. The amendment is drawn on the idea that some place along the line Congress will prohibit in general terms unfair competition and unfair discrimination. Then, of course, unfair competition or unjust discrimination would be unlawful. Then we give the commission power to make rules and regulations that would prohibit a specific practice that constitutes unfair competition. Now, then, gentlemen, we never will control the corporations of this country properly by simply prohibiting certain acts. I believe it is well enough where there is some conspicuous practice that is well known to be obnoxious and dangerous to the people to prohibit that, and perhaps at this session of Congress in all of our antitrust legislation we may prohibit one or two or three or four things; but then Congress adjourns. Business will comply with these prohibitions, will abstain from the few things we prohibit; but the next day, the next month, or the next

year business concerns will invent other practices which are unfair and destructive of competition, which are dangerous to the people, and which enable the big corporations to go on in the same course as before.

Therefore the proper thing to do is to legislate in general terms, to comprehend and include all kinds of acts and practices which are objectionable. Then give this great commission, to be composed of men of the highest grade and character, the authority to make rules and regulations that will prohibit specific acts and practices coming within the general classes prohibited by the general terms of the act. I have had considerable experience in the administration of the public-land laws. The statute gives to the Secretary of the Interior the power to make rules and regulations to govern the disposition of the public lands, and the Supreme Court of the United States has held that the rules and regulations made by the Secretary of the Interior, an executive officer, have the force and effect of law.

Mr. MONTAGUE. Will the gentleman yield?

Mr. MORGAN of Oklahoma. I yield for a question.

Mr. MONTAGUE. Merely for a question. Does the gentleman think the power of the Government to deal with its own lands is analogous to the power of the Government to deal with private business of the country?

Mr. MORGAN of Oklahoma. Well, Mr. Chairman, that raises a question. If these corporations which you have placed under this law are, strictly speaking, private businesses, then we should not lay the strong hand of the Federal Government upon them at all. It is only upon the theory that these corporations have gone beyond strictly private business concerns that the Federal Government lays its hands upon them. [Applause.] If our big corporations are strictly private businesses, then let them go. But I maintain they have attained such proportions that they have ceased to be strictly private concerns. They have become impressed with a public use, they are of public consequence, and it is only upon that ground and theory that the Federal Government is justified in even compelling them to make report.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The question was taken, and the Chair announced the yeas seemed to have it.

Upon a division (demanded by Mr. MURDOCK) there were—ayes 18, yeas 50.

So the amendment was rejected.

The Clerk read as follows:

SEC. 9. That every corporation engaged in commerce, excepting corporations subject to the acts to regulate commerce, which, by itself or with one or more other corporations owned, operated, controlled, or organized in conjunction with it so as to constitute substantially a business unit, has a capital of not less than \$5,000,000, or, having a less capital, belongs to a class of corporations which the commission may designate, shall furnish to the commission annually such information, statements, and records of its organization, bondholders and stockholders, and financial condition, and also such information, statements, and records of its relation to other corporations and its business and practices while engaged in commerce as the commission shall require; and to enable it the better to carry out the purposes of this act the commission may prescribe as near as may be a uniform system of annual reports. The said annual reports shall contain all the required information and statistics for the period of 12 months ending with the fiscal year of each corporation's report, and they shall be made out under oath or otherwise, in the discretion of the commission, and filed with the commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the commission. The commission may also require such special reports as it may deem advisable.

If any corporation subject to this section of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the commission for making and filing the same, or shall fail to make and file any special report within the time fixed by the order of the commission, such corporation shall forfeit to the United States the sum of \$100 for each and every day it shall continue in default in making or filing said annual or special reports. Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of the acts to regulate commerce.

Mr. MURDOCK. Mr. Chairman, I offer the following amendment.

Mr. MURRAY of Oklahoma. Mr. Chairman, I desire to offer two amendments to this section, which are in the nature of the same subject and ought to be voted upon separately; and I request that I may offer these together, and that I may have my entire time in one speech on them.

Mr. ADAMSON. In reference to the amendment which the gentleman from Kansas proposes to offer, I wish to ask if that is the bill which he introduced?

Mr. MURDOCK. Not in its entirety, I will say to the gentleman from Georgia.

Mr. ADAMSON. Would not the gentleman consent that it may be printed?

Mr. MURDOCK. I was going to ask that, if I could not have, inasmuch as I am liable to—

Mr. MURRAY of Oklahoma. Mr. Chairman, I have been recognized to offer my amendments first.

Mr. ADAMSON. I assure the gentleman from Oklahoma that he shall not suffer—

The CHAIRMAN. The gentleman from Oklahoma has the floor. Does the gentleman decline to be interrupted?

Mr. ADAMSON. I did not intend to object. I am trying to agree with both these gentlemen with regard to the time for debate on this section.

Mr. MURDOCK. Will the gentleman yield, as he has made his request?

Mr. MURRAY of Oklahoma. I will yield in order for the gentleman to make his request, if this is not to come out of my time.

Mr. MURDOCK. There is no time.

Mr. ADAMSON. I rose for the purpose of trying to reach an agreement with both gentlemen.

Mr. MURDOCK. I will say to the gentleman from Georgia, with the permission of the gentleman from Oklahoma, that inasmuch as I am liable to be cut out of a motion to recommit I will take the vital part of my bills giving the interstate trade commission more power—

Mr. ADAMSON. The gentleman means passing some laws instead of giving power.

Mr. MURDOCK. And I offer it as an amendment. It is very long, and I am not disposed to delay the committee in the consideration of this measure; and I was going to request that I be allowed to offer the amendment, and that it may be printed, and that I might be heard upon it for five minutes in the interest of the expedition of business.

Mr. ADAMSON. Mr. Chairman, I hope that request will be agreed to by the committee. The bills have been printed and they have been available for everybody who cared to read them, and I hope the committee will agree to this.

The CHAIRMAN. What is the request?

Mr. MURDOCK. That I offer an amendment to have it printed in lieu of reading it.

The CHAIRMAN. The gentleman from Kansas offers an amendment and asks unanimous consent that it be printed without it being read.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. That is what the gentleman wishes to do when he is recognized?

Mr. MURDOCK. Certainly.

Mr. MANN. The gentleman from Oklahoma is now proposing to offer an amendment.

Mr. ADAMSON. If the gentleman from Illinois [Mr. MANN] will permit, I am trying to agree with both of the gentlemen as to time on this section, and I will make a general inquiry before it is wound up.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas [Mr. MURDOCK]? [After a pause.] The Chair hears none.

The following is the amendment of the gentleman from Kansas [Mr. MURDOCK]:

Page 9, line 6, after the word "commerce," insert the following:

"Provided further, That the interstate trade commission is hereby empowered and directed to prevent all corporations or associations subject to the jurisdiction of said commission from engaging in or practicing such unfair or oppressive competition as are hereinafter defined and as are hereby declared unlawful.

"That unfair or oppressive competition as used in this act is hereby defined to include the following business practices and transactions:

"(a) The acceptance or procurement of rates or terms of service from common carriers not granted to other shippers under like conditions.

"(b) The acceptance or procurement of rates or terms of service from common carriers declared unlawful by the act entitled 'An act to further regulate commerce with foreign nations and among the States,' approved February 19, 1903, as amended.

"(c) Discrimination in selling prices as between localities or individuals which is not justified by differences in cost of distribution.

"(d) Procuring, by bribery or any illegal means, information as to the secrets of competitors, or procuring conduct on the part of employees of competitors inconsistent with their duties to their employers.

"(e) The making of oppressive exclusive contracts for the sale of articles of which the seller has a substantial monopoly, whether by patent or otherwise, or oppressive exclusive contracts depending upon or connected with such articles.

"(f) The maintenance of secret subsidiaries or secretly controlled agencies held out as independent of the corporation or association controlling the same and used for any of the foregoing purposes of unfair competition.

"(g) The destruction of competition through the use of interlocking directorates.

"(h) Any other business practices involving unfair or oppressive competition.

"Provided, That whenever the interstate trade commission shall have reason to believe that any corporation or association subject to its jurisdiction has been or is engaged in unfair or oppressive competition

it shall issue and serve upon said corporation or association a written order, at least 30 days in advance of the time set therein for hearing, directing said corporation or association to appear before said commission and show cause why an order shall not be issued by said commission restraining and prohibiting said corporation or association from such practice or transaction, and if upon such hearing the commission shall be of the opinion that the practice or transaction in question is prohibited by this act it shall thereupon issue such order restraining the same. The commission may at any time modify or set aside, in whole or in part, any order issued by it under this act.

"Provided further, That whenever said commission, upon the issuing of such restraining order, shall find that said corporation or association has not complied therewith said commission may petition the district court of the United States, within any district where the act in question took place or where the said corporation or association is located or carries on business, asking said court to issue an injunction to enforce the terms of such order of the commission; and such court is hereby authorized to issue such injunction, and also, in case of any violation of such injunction, in the discretion of the court, to issue an order restraining and enjoining said corporation or association from engaging in commerce among the several States and with foreign nations for such time as said court may order.

"Provided further, That the interstate trade commission is hereby empowered and directed at any time, either upon its own initiative or upon the representation or complaint of any person, corporation, or association, to investigate the organization, conduct, and management of any corporation or association subject to the jurisdiction of the said commission for the purpose of determining whether such corporation or association exercises a substantially monopolistic power in any industry in which said corporation or association is engaged; that any such corporation or association shall be regarded as exercising 'a substantially monopolistic power' whenever such corporation or association, not being subject to the obligation of public service in the given industry in question, exercises control over a sufficient portion of such industry or over sufficient factors therein to determine the price policy in that industry, either as to raw materials or finished or partly finished products. Such substantially monopolistic power exercised over commerce among the several States or with foreign nations is hereby declared to be contrary to public policy; and whenever after such investigation the said commission shall find that said corporation or association exercises such substantially monopolistic power the commission is hereby further empowered and directed to determine by such further investigation as may be necessary whether such monopolistic power is based primarily on artificial or on natural bases.

"Artificial bases shall, for the purposes of this act, be defined as the practices of unfair or oppressive competition as heretofore defined in this act.

"Natural bases shall, for the purposes of this act, be defined as—

"(a) Control of natural resources.

"(b) Control of terminal or transportation facilities.

"(c) Control of financial resources.

"(d) Any other economic condition inherent in the character of the industry, including, among such conditions, patent rights.

"That whenever the commission shall find that any corporation or association subject to its jurisdiction exercises a substantially monopolistic power, based primarily on artificial bases as herein defined, it shall be the duty of the commission to proceed forthwith to terminate such monopolistic power by the exercise of its powers heretofore granted to restrain and prohibit unfair or oppressive competition.

"Provided further, That whenever the commission shall find that any corporation or association exercises substantially monopolistic power, based primarily on a natural base or natural bases as herein defined, said commission shall issue and serve upon such corporation or association a written order to said corporation or association specifying such changes in the organization, conduct, or management of its property and business as in the opinion of the commission will most effectively and promptly terminate such monopolistic power, while at the same time safeguarding property rights and business efficiency. The commission in said order shall fix a reasonable time within which the changes ordered shall be put into effect by such corporation or association. That whenever any corporation or association upon which such an order has been served shall refuse or neglect to comply with the same, the commission shall apply to the district court of the United States in any district where such corporation or association is located or carries on business, asking for an order by said court for the appointment of a supervisor or supervisors of such corporation or association, and it shall be the duty of such court, upon such request by the commission to appoint for a limited time such supervisor or supervisors for such corporation or association and to give such supervisors such powers as are usually granted to receivers and full power of such direction and control over the organization, conduct, and management of such corporation or association and the business and property thereof as shall be best fitted to carry into effect the order of the commission. The supervisor or supervisors shall from time to time, upon the request of the commission, make full report to the commission as to the organization and business of such corporation or association, and said supervisor or supervisors shall have power to carry out any further orders which the commission shall from time to time make relating to such corporation or association.

"Provided further, That any court in terminating a supervisorship imposed as provided in this act may, in order to insure the permanency of competitive conditions, include in its decree a provision submitting the supervised corporation or association and its business, or any part thereof, to the supervision or direction of the commission for such time and in such manner as said court shall fix, and the commission shall be empowered to exercise such supervisory or directory power as shall be conferred in said decree.

"And whenever the commission shall conduct an investigation for the purpose of determining whether a corporation or association exercises substantially monopolistic power as defined in this act or of determining the basis of such power, reasonable opportunity shall be granted in the course of the investigation to such corporation or association to be heard or to present evidence in its own behalf; and before the entry of any order requiring changes in the organization, conduct, or management of the property and business of any corporation or association the commission shall issue and serve upon such corporation or association a written order at least 30 days in advance of the time set for hearing, directing said corporation or association to appear before the commission and show cause why an order should not be issued requiring such changes. The commission may at any time modify or set aside, in whole or in part, any order issued by it under this act.

"Provided further, That service of process, orders, or notices under the provisions of this act may be had by service on any officer or agent of any incorporated organization or on any member or agent of any unincorporated organization, and failure by any corporation or association or by the officers or agents of any such corporation or association, subject to any of the provisions of this act, to comply with the terms hereof or failure or refusal to furnish information required by the commission within 60 days after written demand for such information, shall constitute a misdemeanor and shall be punished by fine of not more than \$100 for each and every day of the continuance of such neglect or failure. Any person who shall willfully make or give to said commission any false or deceptive return or statement required by this act, knowing the same to be false or calculated to deceive in any material particular, shall be deemed to be guilty of a misdemeanor, and upon conviction shall be punished by fine of not more than \$5,000 or by imprisonment for not more than two years, or by both fine and imprisonment."

Mr. ADAMSON. If the gentleman from Oklahoma will kindly state what time he desires, and if the gentleman from Illinois [Mr. MANN] will state what he wants—

Mr. MURRAY of Oklahoma. I will state that I have offered them together because they refer to the same subject. I prefer to offer them together and make my speech all at once, and I would like to have a total of 15 minutes.

Mr. ADAMSON. How much will the gentleman from Illinois desire?

Mr. MANN. We want 15 minutes over here.

Mr. ADAMSON. Fifteen minutes to the gentleman from Oklahoma [Mr. MURRAY] and—

Mr. MANN. And 15 minutes here, besides.

Mr. ADAMSON. That is 30 minutes.

Mr. MANN. Yes.

Mr. ADAMSON. That includes the gentleman from Iowa [Mr. TOWNER].

Mr. MANN. Does the gentleman from Kansas [Mr. MURDOCK] want to take any time?

Mr. MURDOCK. I would like to have five minutes.

Mr. MANN. Mr. Chairman, I ask unanimous consent, then, that the gentleman from Oklahoma [Mr. MURRAY] have 15 minutes, the gentleman from Kansas [Mr. MURDOCK] 5 minutes, the gentleman from Pennsylvania [Mr. GRAHAM] 5 minutes, and the gentleman from Iowa [Mr. TOWNER] 5 minutes; and then such time as the gentleman from Georgia [Mr. ADAMSON] wants he will ask for.

Mr. ADAMSON. I am trying to ascertain how much time my side wants.

Mr. STEVENS of Minnesota. That is 30 minutes on the various amendments.

Mr. COVINGTON. Does that include the gentleman from Oklahoma [Mr. MURRAY]?

Mr. STEVENS of Minnesota. Yes.

Mr. COVINGTON. I ask unanimous consent that the debate close in 50 minutes.

Mr. STEVENS of Minnesota. You had better make it an hour.

Mr. COVINGTON. I ask unanimous consent that the debate on the pending sections and all amendments thereto close in one hour.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent that debate on the pending section and all amendments thereto close in one hour. Is there objection?

Mr. MANN. Thirty minutes on this side, to be divided as mentioned.

The CHAIRMAN. And 30 minutes of that time to be divided as indicated by the gentleman from Illinois [Mr. MANN].

Mr. ADAMSON. And I to control 30 minutes.

The CHAIRMAN. The gentleman from Georgia [Mr. ADAMSON] to control 30 minutes.

Mr. MANN. And I take it the amendments will be voted upon as they are presented.

Mr. ADAMSON. Each amendment will be presented, read, and voted on.

The CHAIRMAN. Without objection, the amendments will be reported for information—

Mr. MANN. No; to be disposed of as they are presented, without coming out of the time.

Mr. ADAMSON. Let the gentleman from Oklahoma [Mr. MURRAY] proceed.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia [Mr. ADAMSON]? [After a pause.] The Chair hears none, and it is so ordered.

The gentleman from Oklahoma [Mr. MURRAY] is recognized for 15 minutes. The Clerk will first report the amendments offered by him.

The Clerk read as follows:

On page 8, line 2, after the word "furnish," insert "under oath"; and in line 4, after the comma following the word "organization" and before the word "bondholders," insert "together with the names and addresses of its"; and in line 4, after the comma following the word "bondholders" and before the word "and," insert "and its officers and

employees," so that lines 2, 3, and 4 will read as follows: "commission may designate, shall furnish, under oath, to the commission annually such information, statements, and records of its organization, together with the names and addresses of its bondholders and stockholders, and its officers and employees, and financial."

Also, on page 8, line 30, after the word "advisable," strike out the period and insert a semicolon and add the following: "and the records, books, and papers of such corporation shall be at all times liable and subject to the full visitatorial and inquisitorial powers of the United States by the said commission; and said commission, or either of them or its authorized representatives, shall also have the right at all times to inspect the books and papers of such corporation and to examine, under oath, any officer, agent, or employee of such corporation in relation to its business or affairs, and to require from them from time to time special reports and statements, under oath, concerning their business or affairs and in all matters pertaining to the public visitation; and within the jurisdiction of the commission it shall have the powers and authority of a court of record to administer oaths, to compel the attendance of witnesses and the production of books and papers, to punish as for contempt any person guilty of disrespectful or disorderly conduct in the presence of the commission while in session, or to enforce compliance with any of its lawful orders or requirements by adjudging and by enforcing its own appropriate process against the delinquent or offending party or corporation (after it shall have been first duly proceeded against by due process of law before the commission, sitting as a court, and afforded an opportunity to be heard upon the reasonableness of the order or requirement alleged to have been violated) such fines or other penalties as may be prescribed or authorized by this act. Any corporation failing or refusing to obey any lawful order or requirement of the commission within reasonable time, not less than 10 days, as shall be fixed by the order, may be fined by the commission in such sum not exceeding \$500, as the commission may deem proper (or such sum in excess of \$500 as may be prescribed or authorized by law); and each day's continuance of such failure or refusal, after due service upon such corporation of the order or requirement of the commission, shall be a separate offense; and no court, except the Supreme Court of the United States, shall issue any writ of prohibition, injunction, or any order restraining the said commission, or take any appeal from its orders made in pursuance of this act.

"Whenever any such corporation shall violate any of the lawful orders of the commission the said commission shall certify such fact to the Postmaster General, who shall thereupon issue a fraud order against such corporation, and thereafter exclude such corporation, its officers and employees, from the use of the mails until such order is completely complied with."

The CHAIRMAN. The gentleman from Oklahoma [Mr. MURRAY] is recognized for 15 minutes.

Mr. MURRAY of Oklahoma. Mr. Chairman, as stated by the committee reporting this bill, the purpose of this law is to get certain information as a "clearing house" for the corporations; second, to aid in the enforcement of law; third, to predicate legislation on recommendations by the President.

As a bill for a "clearing house" which could serve for the most part only the corporations themselves, this bill meets all the requirements. But when you provide only these means it will only give you such information as they desire to give out. If you want such information as will be necessary to enforce the law and to predicate legislation upon, you will have to get much information that they will not voluntarily give up. They must then be compelled to "disgorge." You can not get the information unless you give to the commission seeking it the power to get it. I want to say that I hope my Democratic associates will not attempt to vote down this amendment and then go out to the people and boast about what they and the party have done, because they will have done no more than to provide for a "clearing house" for the corporations of the country. The object of the bill is good and sound; but we want all the facts. To get all the facts you must give to this commission all the power necessary to get them. Under the bill the commission, it is true, can "make the order," but after they have made the order they have no power to enforce it. They must first either go to the grand jury or prosecuting attorney and get an indictment or complaint against the refusing corporation; and then, after that, delays and extensions probably will be had, and perhaps the trust would rather pay the fine than give up the information, or the commission may go into court and get some kind of a remedial writ, such as a mandatory injunction. If you really want the information, you must give this commission the power of a "court of record" for such purpose, and there is the key to getting the information.

And I call your attention again to the fact that you provide for the giving up of the stockholders and bondholders, but not their addresses. If you attempt to prosecute under this bill, you will be compelled to construe the statute strictly to such things only named in the law. Why not make the trusts give their addresses and the names of their officers and employees?

Now, I have been asked why do this? Because in the experience of the Oklahoma Corporation Commission, and my amendment is largely copied from the Oklahoma constitution, with which I had something to do in the making, in a certain suit before the commission they could not get the information except through the employees. After they had compelled the railroads to give the names of their employees the commission stationed one of their representatives, with the power to investigate the

books, the records, and papers, at every depot of this railroad in the State, and instructed them at a given moment by the clock to walk into the agent's office and demand an exhibition of every book, every letter, every order, and every paper in their offices. As a result, they got the complete information that they could not have gotten otherwise than by that process. This is the need for the officers and employees.

This amendment offered by me provides a fourfold remedy. First, the commission is a court of record and with the power, so far as their jurisdiction runs, equal to any of the inferior Federal courts of the United States, and subject only to the Supreme Court of the United States. It then provides the power to punish as for contempt, the power on the part of the commission itself on its own motion to fine or punish, and the further power of having a "fraud order" issued by the Post Office Department. These requirements will get this information.

Now, there may be those who say it is unconstitutional. But, my friends, where is the dead line? Where is the dead line between a private contract and a private corporation and a trust; between private business and public concerns subject to governmental regulation? It is laid down through the Oklahoma Corporation Commission and our State constitution, and which principle has been recently upheld by the United States Supreme Court, to be that where no contract can exist between the citizen and such concern, or where the citizen is powerless to resist the charge, there the trust or corporation of a public character comes in.

The right of Congress or of Government to regulate the rates or affairs of any corporation or concern begins when its nature partakes of such a public aspect as to be monopolistic in its effect or of public concern. A trust begins when contract can not exist. For instance, a railroad is both of a public concern and in the nature of a trust because the citizens must pay the charges made, because there is no other method by which he can travel by rail. The same is true of a telephone or telegraph company or a pipe line. In like manner is a cotton gin or grain separator a public concern, and they partake of the nature of trusts when they control a given area and are left without competition. To illustrate, as occurred in Oklahoma, if there be but one cotton gin or grain separator in a community ginning for hire, and should it attempt in the midst of the ginning season to withdraw its use from the public and offer to buy the cotton, under which condition there could be no competitor in the field, it becomes of such "trust nature" as to authorize its regulation by law and the authority of a public-service commission to compel it to gin cotton should it attempt in the midst of the ginning season to withdraw its service from the public.

A very recent decision by the Supreme Court of the United States in the case of German Alliance Insurance Co., appellant, against Ike Lewis, as superintendent of insurance of the State of Kansas, rendered about a month ago, to wit, April 20, 1914, with Mr. Justice McKenna delivering the opinion of the court, in part says:

The specific error complained of is the refusal of the district court to hold that the act of the State of Kansas is unconstitutional and void. To support this charge of error complainant asserts that the business of fire insurance is a private business, and therefore there is no constitutional power in a State to fix the rates and charges for services rendered by it.

It indeed would be a strained contention that the Government could not avail itself, in the exercise of power it might deem wise to exert, of the skill and knowledge possessed by the world. We may put aside, therefore, all merely adventitious considerations and come to the bare and essential one, whether a contract of fire insurance is private and, as such, has constitutional immunity from regulation. Or, to state it differently and to express an antithetical proposition, is the business of insurance so far affected with a public interest as to justify legislative regulation of its rates? We can best explain by examples. The transportation of property—business of common carriers—is obviously of public concern, and its regulation is an accepted governmental power.

The principle was expressed to be, quoting Lord Chief Justice Hale, "that when private property is affected with a public interest it ceases to be *juris privati* only," and it becomes "clothed with a public interest when used in a manner to make it of public consequence and affect the community at large"; and so using it, the owner "grants to the public an interest in that use and must submit to be controlled by the public for the common good." It is the business that is the fundamental thing; property is but its instrument, the means of rendering the service which has become of public interest.

What makes for the general welfare is necessarily, in the first instance, a matter of legislative judgment, and a judicial review of such judgment is limited. The scope of judicial inquiry in deciding the question of power is not to be confused with the scope of legislative considerations in dealing with the matter of policy.

On the other hand, to the insured insurance is an asset, a basis of credit. It is practically a necessity to business activity and enterprise. It is therefore essentially different from ordinary commercial transactions, and, as we have seen, according to the sense of the world from the earliest times—certainly the sense of the modern world—

is of the greatest public concern. It is therefore within the principle we have announced.

How can it be said that the right to engage in the business is a natural one when it can be denied to individuals and permitted to corporations? How can it be said to have the privilege of a private business when its dividends are restricted, its investments controlled, the form and extent of its contracts prescribed, discriminations in its rates denied, and a limitation on its risks imposed?

We may venture to observe that the price of insurance is not fixed over the counters of the company by what Adam Smith calls the higgling of the market, but formed in the councils of the underwriters, promulgated in schedules of practically controlling constancy which the applicant for insurance is powerless to oppose, and which, therefore, has led to the assertion that the business of insurance is of monopolistic character and that "it is illusory to speak of a liberty of contract."

The Corporation Commission of Oklahoma, operating under this construction of a "trust" and the provision I here offer, with a further power to control, just a few seasons ago acted wisely and effectively along this line when appealed to by the farmers, when a cotton gin in their community, and the only gin, stopped ginning, and offered to buy the cotton, and there was no competition, and the farmers were at the mercy of the owner of that gin. They appealed, in their desperation, to the Corporation Commission of Oklahoma, and the commission issued an order, on the theory of the decision I have quoted, that there was not the relation of a contract of a private character with respect to the cotton gin, and proceeded to order them to show cause why they should not gin that cotton, and, after a hearing, compelled that cotton gin to proceed and gin at the rate it had charged at the time it stopped. I grant you that a gin might withdraw its service from the public, but not in the gin season. It must do this at the close of the season and at a time when the public can provide other means. The same principle exists as to grain thrashers. It ought to exist as to every concern that has any public character or nature. And under this decision of the United States Supreme Court it will exist, and I say, therefore, there is nothing in any objection that this legislation or this fact is unconstitutional.

Now, I call your attention further to the fact that much information of corporations of a public character can not be had without some legislation of this character, and we need that legislation. We howl on every stump about the Standard Oil Trust, and yet there is to be found nowhere in any governmental or State records any records to determine anything about their business. And yet they go into the midcontinental oil field of Kansas, Oklahoma, and elsewhere where the independent oil operators are at work, and, under the plea that there is overproduction, destroy the independent operators and take possession of their property.

We ought to have the information that will determine the amount of the output of the crude product, of the refined product, of the demand each year of the country and of the world at large, so that we may determine on any day what is the output and determine with certainty whether there is an overproduction or whether this is but a plea of that trust to rob the people of their property. This commission seeks to do that; but it is powerless to do it unless you give the power to the commission itself. While they are going off to prosecute, or to seek a remedial writ in some court, the corporation will escape, and the result is you have a commission that you may brag about, but in which there is no virtue. It is a "Mother Hubbard" remedy—it covers everything, but touches nothing.

I want to appeal to the gentlemen of this House who look with dread upon Government ownership—and I include myself as one of you—that unless you meet these conditions, so that there will be a remedy, Government ownership and socialism will sweep over this country with all their attendant evils. [Applause.] Socialists—yes, anarchists—are made by bad laws and oppressive government.

There is a remedy, and if this Government will furnish that remedy with the same provision that we provide for the intrastate corporations of Oklahoma, we shall stop that clamor. You can not push back that tide any longer. This Government rests upon a powder mine, with an anarchist, match in hand, ready to touch off the explosion whenever he has an opportunity, and that explosion would blow up your corporations and civilization as well. You have here a bill for remedial legislation, a bill that has for its object a good purpose, but a bill that has absolutely no power to accomplish that object, and it never will have that power so long as you permit the inferior Federal judges to interfere with it by their writs. You have declined to give that power to the Interstate Commerce Commission.

The CHAIRMAN (Mr. McKellar). The gentleman has consumed 12 minutes.

Mr. MURRAY of Oklahoma. Then I will continue for the remaining 3 minutes.

I do not wish to attack all the Federal courts. I believe, and know, that the Supreme Court has been, since the beginning of this Government, with few exceptions, holding straight to the law and sound policy, and a few years ago, when they amended their rules, they took a step in the line of progress greater than any that Congress itself has made. But there are many inferior Federal judges like one sent to my State, that enjoined the 2-cent fare, and we can not escape the conclusion that that judge was a corrupt judge, because his boy happened to be employed in the office of the very railroad company that the judge served with his injunction.

It is these things that cause the people to become impatient and to adopt those things that will not meet the situation, and cry not only against that court but all Federal courts, and these are the things that reflect upon the Supreme Court itself. I have the utmost faith in the Supreme Court, but I have no more faith in many of the inferior Federal courts than I have in a common "nigger," and I say to you the only way to stop this howl against the courts is to take away that jurisdiction and give it only to the Supreme Court, where the Constitution intended it to lie.

Put into this bill the powers provided for in this amendment and you will not only make of this commission a "clearing house for the corporations," but you will make that a power by which we can enforce the law in the Interstate Commerce Commission and in the corporation commissions of the various States, and we will give the President and Congress not a part of the evidence but the whole evidence. It is absurd to think that we can wisely legislate for corporation or farmer, for banker or merchant unless we have all the facts about his conditions, and you can not get these facts unless you adopt this provision. Our commission in Oklahoma can walk into any railroad office at any moment and say, "Open up your books; let me see your records." And they do not hesitate to obey.

Why should we not give this power to this commission? Why should we not lodge in that commission some power whereby that information can be had? You have your opportunity now to do it, and to go home and say, "We have accomplished the result," or else to vote it down and enact this bill as it is and go home and say to the people that you have done wonders, but in time they will find it is not true, and when they find out it is not true the Democratic Party will be swept from power and something else will arise that will plague you and the Government itself.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. That is a good place to stop—"something else will arise." [Laughter.]

Mr. ADAMSON. I yield to the gentleman from Wisconsin [Mr. Esch] five minutes.

Mr. ESCH. Mr. Chairman, section 2 of the Constitution provides that in all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court of the United States shall have original jurisdiction. As I understand the latter part of the amendment offered by the gentleman from Oklahoma [Mr. Murray], it would give to the Supreme Court original jurisdiction in matters coming before the trade commission. This would be in violation of the Constitution.

The object and purpose of our committee in framing this bill was not to create out of this commission a court. We believed that the commission should be practically a branch of the legislative department of the Government, administering the rights which are granted to it by the bill itself. We could not delegate to it our legislative functions, but we could circumscribe the limits within which it should operate. This trade commission is not to be a court, but an administrative body to aid the courts in securing evidence and carrying out their decrees.

Mr. MURRAY of Oklahoma. Will the gentleman yield?

Mr. ESCH. I have only five minutes.

Now, with reference to the gentleman's first amendment, requiring that the addresses of stockholders and bondholders be given, that is already covered by the first portion of section 9, wherein it is prescribed that—

A class of corporations which the commission may designate shall furnish to the commission annually such information, statements, and records of its organization, bondholders and stockholders, and financial condition, and also such information, statements, and records of its relation to other corporations and its business and practices while engaged in commerce as the commission shall require.

Information as to bondholders and stockholders would include the addresses of bondholders and stockholders if, in the judgment of the commission, that information was deemed necessary or proper.

Mr. MURRAY of Oklahoma. Will the gentleman yield to me for one question?

Mr. ESCH. Yes

Mr. MURRAY of Oklahoma. Does the gentleman recognize the old principle of the Roman law that has come down to us—

Mr. ESCH. *Expressio unius exclusio alterius*.

Mr. MURRAY of Oklahoma. That the exclusion of specific things common to the general premises means the inclusion of everything else.

Mr. ESCH. I understand the principle very well, but that language is broad enough to give the gentleman the information he seeks.

Then the other part of his proposed amendment, it seems to me, is covered by the latter paragraph of section 10, wherein we provide that—

For the purpose of prosecuting any investigation or proceeding authorized by this section the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against.

And further along the same line of authority we say, in section 16—

That for the purposes of this act, and in aid of its powers of investigation herein granted, the commission shall have and exercise the same powers conferred upon the Interstate Commerce Commission in the acts to regulate commerce to subpoena and compel the attendance and testimony of witnesses and the production of documentary evidence, and to administer oaths. All the requirements, obligations, liabilities, and immunities imposed or conferred by said acts to regulate commerce and by the act in relation to testimony before the Interstate Commerce Commission, approved February 11, 1893, and the act defining immunity, approved June 13, 1906, shall apply to witnesses, testimony, and documentary evidence before the commission.

There is power which is complete enough to meet all the requirements of the gentleman's amendment, and there is no one who now questions the fullness of the power of the Interstate Commerce Commission to get any evidence which it needs in the prosecution of cases before it.

Mr. MURRAY of Oklahoma. They can not do it?

Mr. ESCH. They have done it, and they are doing it to-day in the investigation of the New Haven road, and this proposed bill adds to the powers granted to the Interstate Commerce Commission the right, which was held lacking in the Louisville & Nashville case as to documentary evidence, as to correspondence. We put that in as an additional power to be granted to this trade commission, which the gentleman and others claim the Interstate Commerce Commission does not possess.

We do not wish to make of this trade commission a court. We can not give it original jurisdiction. It is not a court, but it is a commission to investigate the facts, and having investigated them, recommend appropriate legislation to Congress. [Applause.]

Mr. ADAMSON. I ask for a vote on the amendment.

Mr. MURRAY of Oklahoma. Mr. Chairman, I will ask to separate the amendments and to vote on the first one. I ask unanimous consent that the first one be reported.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent that the amendment may be divided, and that the Clerk report the first part of the amendment. Is there objection?

There was no objection.

The Clerk read as follows:

On page 8, line 2, after the word "furnish," insert "under oath"; and in line 4, after the comma following the word "organization" and before the word "bondholders," insert "together with the names and addresses of its"; and in line 4, after the comma following the word "bondholders," and before the word "and," insert "and its officers and employees," so that lines 2, 3, and 4 will read as follows: "Commission may designate, shall furnish, under oath, to the commission annually such information, statements, and records of its organization, together with the names and addresses of its bondholders and stockholders, and its officers and employees, and financial."

The question being taken, on a division (demanded by Mr. MURRAY of Oklahoma) there were—ayes 16, noes 35.

Accordingly the amendment was rejected.

The CHAIRMAN. The Clerk will report the second division of the amendment.

Mr. MURRAY of Oklahoma. Mr. Chairman, I do not ask to have that reported again. The committee understands what it is. It is the main proposition. It is not necessary to read it again.

The CHAIRMAN. The question is on the second division of the amendment offered by the gentleman from Oklahoma.

The question being taken, on a division (demanded by Mr. MURRAY of Oklahoma) there were—ayes 18, noes 38.

Mr. MURRAY of Oklahoma. I demand tellers, Mr. Chairman.

Tellers were refused, 10 Members, not a sufficient number, seconding the demand.

Mr. MURRAY of Oklahoma. Mr. Chairman, I make the point that there is no quorum present.

Mr. ADAMSON. After the liberal treatment which the gentleman has had, I wish he would not do that. I do not think he wants to delay action on this bill.

The CHAIRMAN. The gentleman from Oklahoma makes the point that there is no quorum present. The Chair will count.

During the count.

Mr. MURRAY of Oklahoma. Mr. Chairman, I withdraw the point, as I see there is a quorum here.

The CHAIRMAN. The point of order is withdrawn. The amendment is rejected, and the Clerk will read.

Mr. MURDOCK. Mr. Chairman, I ask for recognition on my amendment, which is to be printed.

The CHAIRMAN. The gentleman from Kansas is recognized for five minutes.

Mr. MANN. Has the amendment been read?

Mr. MURDOCK. There was an order of the committee that it should be printed without being read.

Mr. THOMPSON of Oklahoma. I do not know what the gentleman's amendment is. I should like to know what it is.

Mr. MURDOCK. I will explain it to the gentleman.

Mr. ADAMSON. I hope the time of the gentleman from Kansas will not be counted until he explains to gentlemen who have come in what the agreement was about the amendment.

Mr. MURDOCK. Mr. Chairman, the agreement in regard to my amendment was this: I wanted to expedite the bill. I believed that I would be cut out of the opportunity to make a motion to recommit, because there is, under the special rule, only one chance to recommit, which the other minority will probably avail itself of, and I asked and obtained unanimous consent to have the amendment printed, as it was very long and would delay the committee to read it. The amendment contains those essential parts of the Progressive antitrust bills, H. R. 9300 and 9301, which go beyond the field of publicity provided in Progressive bill 9299, and give the commission real power.

Now, Mr. Chairman, if my time may begin now, the underlying philosophy of the pending measure—the Covington bill—is a sort of a childlike belief in the potency of publicity; and, let me say, we in Congress seem to have a pathetic reliance upon publicity and its powers and a singular indifference to our experience in the past with the failures of publicity to correct. We certainly have a singular indifference to the present instances of the impotency of publicity as a means of working great reforms. This very moment Mr. Mellen, ex-president of the New Haven System, is demonstrating that this country can not get in one of its major problems a remedy through publicity. Day before yesterday Mr. Mellen, testifying before the Interstate Commerce Commission, said that he had more bosses when he was the president of the railroad at \$60,000 a year than he had when he was a \$60 clerk. Along with that testimony he gave ample proof of how futile it is for us to proceed as we are in this feeble sort of legislation.

I do not know whether the Members have read Mr. Mellen's testimony or not, but everyone should read it. When the New Haven System, under dictation of Mr. Morgan, gave for the Westchester Railroad \$11,000,000 more than it was worth, a part of the purchase money going as a bribe to politicians—\$1,200,000, Mr. Mellen testified—some of the directors came in to protest to Mr. Mellen. One of these men was a Mr. Skinner. Read Mr. Mellen's testimony as given in the newspapers:

"Holy Caesarina Philippi!" Mr. Skinner shouted. "What have you been doing here with \$11,000,000 of New Haven money?"

"I'll appoint you a committee of one to find out," I suggested.

"Not on your life," said Mr. Skinner.

"There was enough said by Messrs. Hemingway and Skinner to satisfy the other directors," said Mr. Mellen grimly.

The report was adopted by the board of directors November 9, 1907. Ten days later Mr. Mellen made this notation across the back of the record of the vote:

"The trouble with this is there is nothing to show who got the money for the truck turned over. I don't like the looks of it. I don't see why the whole matter should not be made plain. If I had the stock and sold it, I should expect others would state they bought it of me, but that doesn't seem to have been the disposition here. I never have known the first thing about who originally held the securities, what they were sold for, and who they are. I thought I was entitled to know."

Here was the president of a railroad who did not know the affairs of his own road.

Mr. MONTAGUE. Will the gentleman yield?

Mr. MURDOCK. I have only five minutes.

Mr. MONTAGUE. I wanted to ask the gentleman if there was not sufficient publicity of that matter now?

Mr. MURDOCK. Oh, yes; after the horse has been stolen the barn door is locked. What good does publicity do the women and children stockholders now? For nearly 50 per cent

of the stockholders of the New York, New Haven & Hartford Railroad are women and children, who suffered through this corrupt deal which the interests made through their instrument, Mr. Mellen.

Now, Mr. Chairman, the law calling for publicity and uniform accounts for the railroads was passed in 1906. This transaction to which Mr. Mellen testifies was subsequent to that. Within the last two years we passed a bill, as the gentleman from Illinois will remember, compelling publicity on the part of newspapers, in the hope that we might know more about the responsible heads of control in newspapers. Did it remedy? Not in the least; nor will this bill. Now, I have submitted an amendment which embodies the principles of the Progressive antitrust measures set forth in constructive legislation. This amendment gives to this commission the power to prohibit and prevent unfair trade practices, on the one hand, and on the other, to distinguish that element in a monopoly which gives it monopolistic power and divorce it from that factor and protect legitimate trade from its power. I hope that the vote in favor of the amendment will not be confined wholly to the Progressives. It is a step, a long step, in advance. It does mean business and will bring remedy, which this bill, the Covington measure, will not.

Mr. ADAMSON. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. Thirty-five minutes.

Mr. ADAMSON. I yield to the gentleman from Maryland [Mr. COVINGTON] such time as he desires.

Mr. COVINGTON. Mr. Chairman, the statement of the gentleman from Kansas is itself his answer. The Interstate Commerce Commission has to-day precisely the information which he speaks about as necessary for the American people to know. There have been no changes in the act to regulate commerce since the distinguished explorer who leads the party to which the gentleman belongs was in the chair of the Presidency of the United States. I understand, and it seems to be common rumor, that the New York, New Haven & Hartford Railroad had some sort of an understanding with President Roosevelt as to what extent transactions of a certain doubtful sort could take place in New England. At least the press so states.

Mr. MURDOCK. Will the gentleman yield? The gentleman makes an attack on Mr. Roosevelt. Will he yield?

Mr. COVINGTON. I yield.

Mr. MURDOCK. That transaction is set forth fully in the testimony which Mr. Mellen gave, and it is clearly shown that Col. Roosevelt while President declared that whatever Mr. Mellen did in any of these transactions he could not do anything unlawful while he was President. The fact is that Theodore Roosevelt while he was President had the big stick out for just such malefactors, and he is the only one within the gentleman's official experience and mine who has been after them with the big stick.

Mr. COVINGTON. I want to say in reply to the gentleman that notwithstanding the big stick that was apparently after the malefactors of great wealth, as the colonel once called them, they are operating with greater vehemency than ever before in the history of America. If the lamentations of the Progressive Party are to be accepted.

But, Mr. Chairman, the gentleman from Kansas knows that when the Bureau of Corporations was first created there was then found by the investigation conducted during the incumbency of President Roosevelt into the affairs of the Beef Trust by James R. Garfield, the then Commissioner of Corporations, abundance of evidence from the innermost sources of the operations of the great corporations constituting that trust to prosecute the individual defendants. No man who knows will dare to say that there was not publicity galore of all the facts that affected the operation of that trust. Whatever may have been the shortcomings of the law, it was not those shortcomings that were incident to publicity.

Mr. MURDOCK. But the prosecution was begun, as the gentleman knows.

Mr. COVINGTON. Oh, but the gentleman stated that we could not get publicity until after the horse had been stolen.

Mr. MURDOCK. And the gentleman knows there was a world of publicity in the Beef Trust transaction, and we failed. The gentleman knows that.

Mr. COVINGTON. Failed for what reason?

Mr. MURDOCK. Failed because the courts could not handle this sort of a proposition; failed because we lacked an administrative body like a real interstate trade commission that could handle it. That is the reason.

Mr. COVINGTON. We failed because the imperfect cooperation of the Commissioner of Corporations with the United

States district attorney in Illinois caused individual immunities which made it impossible to reach the situation.

Mr. MURDOCK. The gentleman should not forget the jury which acquitted the gentlemen, after a strong case.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. COVINGTON. Yes.

Mr. MANN. I think the gentleman wants to state fairly the situation about that Beef Trust prosecution. Where immunity was granted, it was because of the efforts to get information and make it public.

Mr. COVINGTON. Oh, yes; but I will recall to the gentleman from Illinois the fact that the President himself directed the Commissioner of Corporations to furnish to the district attorney the information which granted the immunity. It was the direct result of the immunity granted by President Roosevelt that the individual defendants escaped conviction before Judge Humphrey.

Mr. MURDOCK. And the gentleman might say in the same connection that it is the President now in the White House who has directed Mr. Folk, chief counsel of the Interstate Commerce Commission, to go ahead before that commission with Mr. Mellen, at the risk of granting him immunity, and that against the protest of the Attorney General, Mr. McReynolds; and it all goes to prove, as the gentleman himself said, that publicity does not reach this sore spot, and publicity is the whole essence of the gentleman's bill.

Mr. COVINGTON. Oh, not by a great deal. Publicity not accompanied by immunity is a sufficient corrective to-day for many of the evils that still exist in the industrial world, but the publicity we are now getting regarding the New Haven Railroad is not by the direction of the President of the United States to Mr. Folk. President Wilson has had nothing whatever to do with that situation. He has strictly adhered to his duty to let the Department of Justice take care of the Government's case.

The Interstate Commerce Commission has distinctly declared that this proceeding is on its account, by its own independence, without direction from or control by anybody; and I do not know but that the Attorney General would have very much better been able to deal with the situation if he had not been interfered with by the commission and its solicitor.

I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. MURDOCK].

The question was taken; and on a division (demanded by Mr. MURDOCK) there were—ayes 14, noes 49.

So the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 8, line 13, after the word "year," strike out the words "of each corporation's report."

Mr. TOWNER. Mr. Chairman, under the provisions of this bill corporations are allowed to determine when they shall file their reports, because the bill allows the reports to be filed subsequent to the expiration of the fiscal year of the corporation and not the fiscal year of the Government. I think it would be vastly better to have it the fiscal year of the Government. In fact, there is no possible way in which we can make any uniform system of reporting for purposes of comparison unless it shall be the fiscal year of the Government and not the fiscal year of the corporation. My amendment would strike out the words "of each corporation's report" and leave it to require the reports for the fiscal year of the Government, in order that they might be uniform reports.

Mr. STEVENS of Minnesota. Is not that accomplished now by the provisions of the corporation or the income-tax law?

Mr. TOWNER. I think not.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 8, line 14, strike out "or otherwise, in the discretion of the commission."

Mr. TOWNER. Mr. Chairman, the object of this amendment is merely to require that the annual report should be under oath. The language of the bill would allow the commission to determine whether or not it would require the annual reports to be made by corporations to be made under oath. It seems to me that such a vastly important matter as must be the annual report of these corporations to this commission—to the Government of the United States—should be made under oath.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. MANN. Mr. Chairman, under the order of the committee the gentleman from Pennsylvania [Mr. GRAHAM] was to have five minutes. He proposed to offer an amendment. I understand the Committee on the Judiciary, of which he is a member, is having a meeting to pay a tribute to the distinguished chairman of that committee, who is leaving the House. I therefore ask unanimous consent that we may return to this section later in the day, in order that the gentleman from Pennsylvania may offer his amendment under the time restriction already agreed upon in the committee.

Mr. ADAMSON. Suppose we make sure of his return by letting it go to the end of the bill?

Mr. MANN. I think probably he would want to offer it before that.

Mr. ADAMSON. Very well, if he comes in.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the section be passed over temporarily in order that the gentleman from Pennsylvania [Mr. GRAHAM] may be permitted at a later time in the day to offer a proposed amendment. Is there objection?

There was no objection.

The Clerk read as follows:

Sec. 10. That upon the direction of the President, the Attorney General, or either House of Congress the commission shall investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation. The report of the commission may include recommendations for readjustment of business, in order that the corporation investigated may thereafter maintain its organization, management, and conduct of business in accordance with law. Reports made after investigation under this section may be made public in the discretion of the commission.

For the purpose of prosecuting any investigation or proceeding authorized by this section, the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against.

Mr. DILLON. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DILLON:

Page 9, line 22, after the word "against," strike out the period and insert in lieu thereof the following: "and in addition thereto the commission is hereby empowered to make all necessary rules, regulations, orders, and decrees for the enforcement of the powers herein granted, and the rules, regulations, orders, and decrees of such commission in any such matters shall be binding and conclusive against all persons, firms, and corporations."

Mr. DILLON. I would like to ask the gentleman in charge of the bill if I can have 15 minutes on this and another amendment which I desire to offer?

Mr. ADAMSON. I want to ask the Chair if it is not substantially an amendment that has already been disposed of?

Mr. DILLON. No; it covers different items.

Mr. ADAMSON. What is the wish on that side? How much time does anybody want on this section?

Mr. MANN. Is this an amendment to section 10?

Mr. DILLON. Yes.

Mr. STEVENS of Minnesota. I understood the gentleman from South Dakota stated he had another amendment which he would like to offer, and he desired to speak on both.

Mr. MANN. Make it 15 minutes on this side on the section.

Mr. ADAMSON. Well, I reserve 15 minutes to this side. I might not use it, but I will ask unanimous consent that all debate on this section and amendments thereto close in 30 minutes.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that all debate on this section and amendments thereto be closed in 30 minutes, one half the time to be controlled by himself and the other half by the gentleman from Minnesota [Mr. STEVENS]. Is there objection?

Mr. DILLON. I want 15 minutes, because I was unable to secure time in general debate.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. DILLON. Mr. Chairman, I send up a second amendment which I would like to have reported.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DILLON:

Page 9, line 10, after the word "corporation," strike out the period and insert in lieu thereof the following: "and upon making the investigations the said commission shall have power to make findings, orders, and decrees prohibiting any practice which it deems unfair, any misconduct, unfair methods, unfair competition, acts of oppression, or acts of deception; and such findings, orders, and decrees shall be

binding and conclusive and may be enforced in any district court in the United States."

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 15 minutes to the gentleman from South Dakota [Mr. DILLON].

Mr. DILLON. Mr. Chairman, in 1912 the Republican Party in its platform declared for a Federal trade commission in the following language:

In the enforcement and administration of Federal laws governing interstate commerce and enterprises impressed with a public use engaged therein there is much that may be committed to a Federal trade commission, thus placing in the hands of an administrative board many of the functions now necessarily exercised by the courts. This will promote promptness in the administration of the laws and avoid delays and technicalities incident to court procedure.

This bill is a step in the right direction and will have my support. It, however, falls short of the Republican Party's platform declaration.

The interstate trade commission should be granted specific powers in order that it may accomplish effective work and thus justify its creation. This bill makes the trade commission an investigating committee, a mere adjunct to the office of the Attorney General. Unless we can vitalize it with a grant of powers the trade commission will prove inadequate and inefficient to remedy the evils now existing.

The plan is to investigate for the Attorney General and for the President, and have the President recommend to Congress what should be done in the premises. We are informed by the report of the committee that "there can thus be no laxity at the Department of Justice when it is presented with the facts disclosing violations of law." In my judgment the trade commission as an adjunct to the Department of Justice will prove wholly inadequate to remedy the evils that exist in the restraint of trade. What is needed is to give the trade commission power to pass upon all questions of an administrative character, and make its decisions conclusive, leaving nothing for the courts to do except to protect the constitutional rights of the parties.

Combination of capital for carrying on our industries is a necessity and belongs to our modern civilization. The reformer must not destroy the combination of capital because it is necessary to carry forward the great enterprises in which we are now engaged. The trusts and combinations must be our servants, not our masters. Let us rule them and not allow them to rule us.

In addition to the creation of a trade commission, it is important that there should be a national charter act which should provide the terms upon which a national charter should issue to corporations engaged in interstate commerce. It should provide for the limitation of the amount of stock to be issued; require all stock to be paid in money or in the physical valuation of the property. It should provide for the settlement of disputes between the employers and the employees. It should grant powers to the trade commission and give such commission absolute control of all national incorporations, and permit the commission, when in its judgment a trust has been formed, to fix maximum rates and maximum prices. The sovereign power should, through its trade commission, bring all corporations engaged in interstate commerce under Government inspection and regulation.

It should further provide that all State corporations engaged in interstate commerce should be compelled to take out a Government license in order to engage in interstate commerce and be subject to the contractual features provided in the national incorporation act and be subject to Government inspection and regulation. No State corporation should be given a Government license until a showing was made to the trade commission that its stock represented full money or property value.

The practice of issuing millions of dollars of watered stock to favorite directors should no longer be tolerated. Such practice is not honest, not fair to the stockholders nor to the public. The trade commission should determine the amount of stock that might be issued by any corporation and be given power to prevent a useless and unnecessary centralization of capital into one corporation. In the place of having a billion-dollar corporation, it could have two or more smaller corporations, and thus be able to restore competition and regulate all corporations engaged in interstate commerce. The State corporations, with their billions of dollars of watered stock, never should be permitted to obtain national protection as long as the corporate stock fails to represent full money and property value.

The attempt to control the corporations through the judiciary will fail. The judiciary with its delays, its technicalities, and uncertainties is wholly inadequate to regulate or control the trusts and combinations. The legislative department of government does not need the aid of the courts in regulating legislative or administrative matters. The courts have been ex-

trremely zealous in upholding the rights of the judiciary and have in many respects assumed legislative functions, and the time has come when the legislative department should uphold its rights and sustain its legislative enactments. The legislative department is, or should be, as honest as the judiciary, and the place to correct its errors is at the polls.

The right to declare what is a reasonable rate for transporting freight and passengers is a legislative function. It involves disputed questions of fact—matters of public policy. The railroad commissions and the Interstate Commerce Commission, composed of skilled, experienced men, are better able to pass upon the question of rates than the courts. We should assume that they are honest, because they take their oath to support the Constitution the same as the judges. There is no reason why one should be more honest than the other. The legislative department may fix the rates, but the courts have reserved the right to say whether the rates so fixed are reasonable or unreasonable. The judiciary has thus taken away the final right of the legislative department to pass upon these disputed questions, these matters of public policy. The right in the legislative department is of slight value when it is not final but intermediate. The courts hear the evidence and say the rates so fixed, in its opinion, are too low for the company to pay dividends on its stock. In this way the courts speak finally and conclusively and becomes the superior power. By the same right the judiciary can dig ditches, review orders for building bridges, cattle guards, and railroad crossings which the legislative department deemed necessary. The judiciary having thus assumed powers and functions not its own, and having encroached upon the legislative department, the time is now at hand when we should in every way possible develop the administrative powers of the legislative department of the Government.

Whether the competition in trade is fair or unfair can best be determined by a trade commission. It is not necessary to submit the matter to the courts. We have made but little headway in controlling the trusts and combinations through the courts. Experience teaches us that the legislative department must rely upon administrative boards to carry into effect its congressional enactments. Give the trade commission powers, not to report the facts, but to decide the facts; not to become an adjunct of the judiciary, but independent of the judiciary, and provide that its determination of the facts shall be conclusive, and leave the courts to declare the law upon the findings of the commission and upon the undisputed facts. Give the commission power to enforce its rules, its regulations, and its decrees and the trade commission will be able to restore competition.

Election boards conduct administrative functions when they report the votes cast. Boards of health may, if granted powers, through its rules and regulations, abate nuisances. Administrative power may be given to inspectors of factories. The Interior Department of the Government, through its entire history, has conducted its functions through administrative officers. By the act of May 29, 1830, the right of preemption was given to certain settlers on the public lands. It required "proof of settlement or improvement shall be made to the satisfaction of the register and receiver." It was held that their decision was conclusive in that no appeal was given. The determination of any ministerial officer may by statute be declared final and conclusive, but such finality does not change its character and transform it from an executive to a judicial act.

Investigations by the trade commission would not constitute a judicial act. It would not take away any vested rights nor would it deny to anyone his constitutional rights. The due process of law does not mean a hearing before a court, but the right is secure when the investigation is had upon notice. No one doubts the power of the Government to control the practices of industrial corporations engaged in interstate commerce. The commission should investigate all misconduct, unfair and dishonest methods, unfair competition, all methods bringing about combinations, acts of oppression, and fraudulent methods of discrimination. The commission should be given the right to give standards of conduct in corporate affairs and to prepare a moral code in the conduct of corporate affairs. The bill proclaims that the judiciary must lead the way out of the industrial wilderness. If we rely on the judiciary, our progress must necessarily be slow. We prefer to place our hopes and aspirations in an administrative board, a board that would not be hampered by appeals, delays, and technicalities.

Congress has the power to enact rules for the regulation of future conduct, future rights, and future controversies. Give the trade commission the full power to make rules, regulations, and decrees and full power to enforce its mandates. Declare that

its decisions upon disputed facts shall be final and leave the courts nothing to pass upon except the constitutional rights of the parties and we will give to the country a trade commission that will do the business and its mission will be justified by the American people. [Applause.]

Mr. ADAMSON. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the first amendment, offered by the gentleman from South Dakota, which the Clerk will report.

The first amendment was again reported.

The question was taken, and the first amendment was rejected.

The CHAIRMAN. The question recurs on the second amendment, offered by the gentleman from South Carolina, which the Clerk will report.

The second amendment was again reported.

The question was taken, and the second amendment was rejected.

Mr. MANN. Mr. Chairman, I now ask that we return to section 9, under the order of the committee.

Mr. ADAMSON. After the gentleman from Maryland [Mr. COVINGTON] returns; he wished to be here when the gentleman from Pennsylvania [Mr. GRAHAM] spoke. I ask the gentleman to withhold his request until the gentleman from Maryland returns.

Mr. MANN. I will do so.

Mr. MOSS of West Virginia. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. Is that to section 10?

Mr. MOSS of West Virginia. Yes.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, by striking out the words "any documentary evidence," in line 21, page 9, of section 10 of the bill, and substitute therefor the words "any books, papers, or documents."

Mr. ADAMSON. Debate is exhausted on this subject.

Mr. STAFFORD. Will not the gentleman yield a few minutes to the gentleman from West Virginia?

Mr. ADAMSON. It not only was exhausted but the same amendment was offered in another place and voted down.

Mr. STEVENS of Minnesota. I think debate was not quite exhausted on our side. The gentleman from South Dakota yielded back the remainder of his time.

The CHAIRMAN. The gentleman had two minutes remaining.

Mr. ADAMSON. I am willing for that to be used.

Mr. MOSS of West Virginia. Mr. Chairman, the sole object of this amendment is to do away with what I consider an ambiguity of expression. The term "evidence," as I understand it, means proper testimony. It does not mean any testimony. It does not mean any books or papers, but it means such as a court might consider proper to be offered in evidence or proper to go before the court in the determination of the controversy. Now, when you use the expression "documentary evidence" here in this bill it presupposes that somebody is going to pass upon whether or not the papers or documents should constitute evidence, and so in order to clear away the ambiguity I have offered this amendment to make any books, papers, or documents proper to be considered.

The CHAIRMAN. The time of the gentleman has expired; all time has expired.

Mr. ADAMSON. Not on this side. I yield to the gentleman from Virginia [Mr. MONTAGUE].

Mr. MONTAGUE. Mr. Chairman, I just wish to call the attention of the committee to an evident omission on the part of the gentleman from West Virginia to consider that the definition of "documentary evidence" alluded to by him in line 21, page 9, is clearly covered by the definition of "documentary evidence" beginning at line 13, page 6, so that the very papers and evidence which the gentleman desires to be covered are wholly cared for in the definition itself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia.

The question was taken, and the amendment was rejected.

Mr. ADAMSON. Now, Mr. Chairman, the gentleman from Illinois asked that the gentleman from Pennsylvania [Mr. GRAHAM] be allowed to recur in order to offer his amendment.

The CHAIRMAN. The gentleman from Pennsylvania is recognized to offer an amendment.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I present an amendment to section 9, and ask to have it reported.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM of Pennsylvania:  
"Page 8, line 2, after the word 'commission' insert the words 'after investigation,' and after the word 'designate' insert the words 'as tending to create unlawful restraints of interstate trade or monopolies.'"

Mr. GRAHAM of Pennsylvania. Mr. Chairman, this, it seems to me, is a very important amendment. Following, as I have tried to do, the purpose and thought of the committee which has reported this measure, I feel sure that they desire by this section to create a limitation so that there shall be a point beyond which the application of this bill will not extend. That limitation is found in the use of the language which I now quote from the bill, as follows:

That every corporation engaged in commerce, excepting corporations subject to the acts to regulate commerce, which, by itself or with one or more other corporations owned, operated, controlled, or organized in conjunction with it so as to constitute substantially a business unit, has a capital of not less than \$5,000,000, or, having a less capital, belongs to a class of corporations which the commission may designate, shall furnish—

And so forth.

Now, my amendment would simply change that section of the bill so as to read:

A business unit, has a capital of not less than \$5,000,000, or, having a less capital, belongs to a class of corporations which the commission after investigation may designate as tending to create unlawful restraints of interstate trade on monopolies.

I am sure that every gentleman will recognize that, as this particular part of the section now reads, there is no limitation whatever, but it is left absolutely within the discretion of the commission and covers every corporation in the land. And as there has been a great deal of protest coming up from the rank and file of the people against harrying and harassing business it would be well if we did not allow this act to extend to every corporation in this country, no matter whether its capitalization be \$10,000 or \$5,000,000. You may say it is left to the discretion of the commission. True; but we should define the limit of that discretion and we should say that only where it appeared upon investigation that corporations possessing less capital than \$5,000,000 were corporations tending to restrain trade or create monopolies, should they be required to make reports, and be subjected to investigation and supervision.

Every lawyer in this body will recognize that there is no power in the Government to interfere with ordinary business; that there are certain well-founded bases upon which interference may be allowed. One is where a corporate existence is stamped with the public service. Another is under the Sherman law, wherever it appears to be a monopoly or existing in restraint of trade. Our legislation should be aimed at these things and circumscribed and limited in its application to them. I venture to suggest that in the passage of this bill as it is at present worded and framed an injury will be done to the general business of the country. You will hear editorial comment in our papers, and individual comment in our papers, about giving business a rest from interference and from supervision and from control, and the governmental hand of control should never be laid upon business, to interfere with its freedom, except where it is justified by the overshadowing necessity to create some public good. Under these circumstances, Mr. Chairman, I ask, with a view of bettering the bill, and with no thought inimical to it, that the committee consider this amendment as one which will increase its efficiency and protect the community from attack and from useless requirements that can not help in any way.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GRAHAM] has expired.

Mr. ADAMSON. Mr. Chairman, I think I have about 10 minutes reserved, have I not, on this section?

The CHAIRMAN. The gentleman has 15 minutes.

Mr. ADAMSON. I yield to the gentleman from Minnesota.

Mr. STEVENS of Minnesota. I wish five minutes, Mr. Chairman.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. STEVENS of Minnesota. Mr. Chairman, I sympathize with the general purpose of my friend from Pennsylvania [Mr. GRAHAM], but I call his attention to the effect his amendment would have on this section and its effect on the general purposes of the bill. In the first place, this bill is drafted to perform two functions—first, to assist in the judicial power of government in enforcing the laws, and, in the second place, to assist the legislative power of our Government in finding out the right information and in formulating and adopting the right kind of legislation. His amendment would completely restrict

this provision to its judicial functions and eliminate completely its legislative functions, so far as reports, general and special, are concerned, covered by this section 9. So that at the very outset the most important duty of this commission—to ascertain the facts and advise concerning legislation concerning all corporations of the class of less than \$5,000,000 capital—would be entirely eliminated by his amendment. I know this committee does not desire to so emasculate this measure. In the second place, it applies to a class of corporations which the commission, after investigation, may designate to enforce the laws, and so forth. That amendment, then, would thus be jurisdictional. Before the commission would have authority to classify it must previously ascertain these facts, as required in the amendment of the gentleman.

Mr. GRAHAM of Pennsylvania. Will the gentleman permit me?

The CHAIRMAN. Will the gentleman from Minnesota yield to the gentleman from Pennsylvania?

Mr. STEVENS of Minnesota. Certainly.

Mr. GRAHAM of Pennsylvania. Is not the prior language in the bill intended to be jurisdictional, and was it not the thought of the committee that there might be some corporations below the \$5,000,000 limitation that would not require supervision, and was it not the intent of the committee that all these minor corporations might be exempted from the provisions of the bill?

Mr. STEVENS of Minnesota. No, sir; not entirely. There might be circumstances under which a classification should be made as to a class of these corporations included within the scope of the bill, and to that extent it is true. But that is not serious, as is the jurisdictional question of the amendment of the gentleman, which would practically emasculate its aid to judicial proceedings. By placing the words "after investigation" after the word "commission"—investigation for a certain definite purpose—under the decisions of the Supreme Court in the interstate-commerce cases, where the commission, before action, is required to have an opinion based upon ascertained facts of record, would require this commission to investigate first and make the required record in every case desired to be considered. Unless that record be made and these facts developed, the commission would not have any power to make a classification, and thus would be helpless to reach these smaller corporations for any purpose under this section. That would amount substantially, in effect, that before the commission could act it must make a record prescribed by the amendment of the gentleman. That record and its completeness could be attacked in the courts, and any corporation which it was desired to investigate for judicial purposes would have the right to test the question as to such investigation—test that record—and go to the Supreme Court before the commission would have any right to classify, even, in performing its judicial functions, and could not act at all as to these corporations in performing its legislative functions. The result of the amendment of the gentleman would first eliminate all its legislative functions, and, in the second place, would practically eliminate its judicial functions by compelling the jurisdictional question to be raised at all times and allowing the courts to decide upon a matter before the commission could have authority to act.

Now, let me call the attention of the gentleman to some of these small corporations, which it is necessary for the general welfare of the public and for the business corporations themselves to be included within this section. More and more corporations doing business with the public are being impressed with a public use, and more and more legislation and judicial decisions are holding corporations as being impressed with a public use. This is increasingly true as to those which hold themselves out as doing business generally with and for the public.

The decision of the Supreme Court the other day in the Kansas insurance case shows the extent to which the courts will go in impressing ordinary business corporations with a public use. Now, it is the object of this very section to enable these corporations doing comparatively a small or a large business, it may be, in a particular locality, possibly oppressive to the people of that locality, to be brought within the jurisdiction and scope of this commission and compelled to make these facts public, and in that way clean up the evil practices, assist in the observance of the law, and furnish some information which may be of assistance to Congress in its work of legislation. The gentleman does not desire to harass such small corporations. Does he not compel just that action by making it jurisdictional to investigate before any can come within the scope of this section? Ordinarily the great majority of them would be exempt from any action under this section. The amendment of the gentleman might compel the commission to

go much further, investigate and harass far more, than would be the case as the bill now stands. You not only restrict the powers of the commission but you compel an active and possibly injurious use of the remaining powers, not to the broad advantage of the public.

For that reason, much as I sympathize with the object of the gentleman in not having the business concerns of this country harassed—and none of us want to do that—at the same time this is the occasion for enabling the business concerns of this country to have a chance by which their practices can be open, can be protected, and the high character of the commission that I hope and expect we shall have will protect them in the proper enforcement and administration of this section.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, may I say just a word in answer to the gentleman from Minnesota?

Mr. STEVENS of Minnesota. I have the time, and I will yield to the gentleman to answer, as he desires.

Mr. GRAHAM of Pennsylvania. I thank the gentleman. I appreciate the argument of the learned gentleman, and always listen to him with great respect as a lawyer, but I really believe in this instance that his argument is fallacious. There is nothing in the amendment which I have offered which would permit an appeal to the courts, because this looks toward a classification. There would be no individual corporation dealt with and none to appeal from the decision.

Mr. STEVENS of Minnesota. Let me ask the gentleman there this question: Could not any corporation that is asked to submit a report coming in the lesser class allege that the commission had not investigated with a view to its doing the things included in your amendment? Could it not raise that question whenever a report was asked for, and would not that be jurisdictional?

Mr. GRAHAM of Pennsylvania. I do not see how it could, and for this reason: The finding of the commission is conclusive, and it classifies those who shall make reports, and it inflicts no penalty. The purpose, undoubtedly, of this bill was to create a limitation below which this system of espionage, search, and seizure should not extend. That was the purpose of the bill. I say, to do that, under this language, every corporation, from the smallest to the biggest, is exposed to this supervisory investigation and exposure of its private affairs.

Mr. Chairman, I believe in the destruction of monopoly. I believe in destroying those things which restrain trade; but I do not believe in putting the business of the country in shackles and in interfering with its freedom. I respectfully submit to you that this amendment would be no more and no less than an admonition to the commission, saying that "Thus far you can go with propriety." The aim and object of all the antitrust laws is to destroy monopoly and to destroy restraint of trade. Wherever you find the practices of any class of corporations, big or little, tending to establish these things, then you may classify them and put them under the rigorous terms of this section of the bill. But if you do not find these things, you can not lay a hand upon them or infringe upon the liberty of business in that respect.

#### MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 16508. An act making appropriations to supply further urgent deficiencies in appropriations for the fiscal year 1914, and for other purposes.

The message also announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 149. Joint resolution authorizing the President to accept an invitation of the French Republic to participate in an International Congress of Musical Science and History to be held at Paris.

#### INTERSTATE TRADE COMMISSION.

The committee resumed its session.

Mr. ADAMSON. Mr. Chairman, I yield the balance of my time to the gentleman from Maryland [Mr. COVINGTON].

The CHAIRMAN. The gentleman from Maryland [Mr. COVINGTON] is recognized for two minutes.

Mr. COVINGTON. Mr. Chairman, I appreciate the idea that runs through the mind of the gentleman from Pennsylvania [Mr. GRAHAM], but I think that upon a very careful analysis of this bill he will find that if the purpose he seeks to accomplish is to restrict investigations to those corporations which have more than \$5,000,000 of capital, he has attempted an amendment to the wrong section. This section provides only

for one thing, and that is for the filing with the commission by the corporations of the annual and special reports.

Now, the smaller corporations, presumably conforming to the law, ought not to be those corporations that are compelled to do the amount of extra work and have the extra expense incident to the publicity that is the motive for filing annual reports, and, at the direction of the commission, special reports. But, so far as investigations are concerned, the gentleman knows that it was never intended, and is not now intended, under the Sherman law that corporations only of a certain size shall be amenable to the statute. That law is to reach monopoly, no matter by whom created.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, will the gentleman yield there?

Mr. COVINGTON. I yield to the gentleman.

Mr. GRAHAM of Pennsylvania. Just for a question. Is not this section the jurisdictional section of this bill?

Mr. COVINGTON. I do not think it is the only jurisdictional section of the bill. I think it is only jurisdictional in so far as fixing the requirements of the corporations in filing reports.

Mr. GRAHAM of Pennsylvania. Is it not by virtue of this section that every corporation is subjected to making these reports and the exposition of their personal affairs?

Mr. COVINGTON. It is by virtue of this section that the jurisdictional rights of the commission to require reports exist; but the jurisdictional rights of the commission to investigate and to perform other duties are found in the sections defining those duties and providing for those investigations.

Mr. GRAHAM of Pennsylvania. Would not my amendment merely operate to prevent such a thing as that in the case of a corporation of less than \$5,000,000, unless the commission itself finds that such a corporation is doing something to restrain trade or create a monopoly?

Mr. COVINGTON. I think not. Your amendment would simply prevent the commission from requiring reports from corporations with less than \$5,000,000 capital, unless they had been investigated to determine whether or not they were violating the antitrust laws. But what was intended in this section was to obviate the investigation of small corporations not charged with violations of law, because it might be an unjust oppression, and therefore the commission was given the power to classify those corporations, presumably by businesses, which the general information already in the hands of the commission demonstrated might possibly be so engaged as to require publicity of their acts in the interest of competition and to prevent monopoly. It is to avoid a preliminary investigation that we invest the commission with this power to designate the classes that shall file reports.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. GRAHAM].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 11. That when in the course of any investigation made under this act the commission shall obtain information concerning any unfair competition or practice in commerce not necessarily constituting a violation of law by the corporation investigated, it shall make report thereof to the President, to aid him in making recommendations to Congress for legislation in relation to the regulation of commerce, and the information so obtained and the report thereof shall be made public by the commission.

Mr. STEVENS of New Hampshire. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New Hampshire offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, section 11, page 9, by striking out all of said section and inserting the following:

"SEC. 11. That unfair or oppressive competition in commerce is hereby declared unlawful.

"The commission is hereby empowered and directed to prevent corporations engaged in commerce from using unfair or oppressive methods of competition.

"That whenever the commission shall have reason to believe that any corporation engaged in commerce has been or is using any unfair or oppressive method of competition it shall issue and serve upon said corporation a written order at least 30 days in advance of the time set therein for hearing, directing said corporation to appear before the commission and show cause why an order shall not be issued by the commission restraining and prohibiting said corporation from using such method of competition, and if upon such hearing the commission shall find that the method of competition in question is prohibited by this act it shall thereupon issue an order restraining and prohibiting the use of the same. The commission may at any time modify or set aside, in whole or in part, any order issued by it under this act.

"That whenever the commission, after the issuance of such restraining order, shall find that said corporation has complied herewith the commission may petition the district court of the United States within any district where the method in question was used or where the said

corporation is located or carries on business, praying said court to issue an injunction to enforce such order of the commission; and such court is hereby authorized to issue such injunction, and also in case of any violation of such injunction in the discretion of the court to issue an order restraining said corporation from engaging in commerce for such time as said court may order."

Mr. BARTLETT. Mr. Chairman, I make the point of order that that amendment is not germane to this section or to this bill.

Mr. STEVENS of New Hampshire. Mr. Chairman, I should like to be heard on the point of order.

The CHAIRMAN. The gentleman from Georgia makes the point of order—

Mr. BARTLETT. I make the point of order that it is not germane to this section specially or germane to any of the provisions or purposes of the bill; and, so far as I could gather from listening to the reading of it, it proposes to confer upon the commission judicial powers, to give it the power to restrain in some way, by order, the doing of certain things, which power can not be conferred upon anyone except a judicial body.

Mr. ADAMSON. And it attempts to fix prices.

Mr. BARTLETT. I do not undertake to say that, because I did not hear it. This is an amendment to section 11 of the bill.

Mr. STEVENS of New Hampshire. I have moved to strike out section 11 and substitute this.

Mr. BARTLETT. May I have the first part of the amendment read again?

The CHAIRMAN. If there be no objection, the amendment will be again read.

The Clerk read as follows:

Amend, section 11, page 9, by striking out all of said section and inserting the following:

"Sec. 11. That unfair or oppressive competition in commerce is hereby declared unlawful.

"The commission is hereby empowered and directed to prevent corporations engaged in commerce from using unfair or oppressive methods of competition."

Mr. BARTLETT. I do not care to have the Clerk read any further. Of course, this is an amendment to section 11, because it is a substitute for that section and a substitute is nothing but an amendment. In order to take the place of section 11 the amendment must be germane to that particular part of the bill and to the section proposed to be stricken out and to the purposes of the bill. Now, the Chair will see that section 11 provides for making a report to the President and to Congress for the purposes stated in the section; but this substitute proposes that the commission created by this act shall have power to do that which Congress has not the power to confer upon it. Now, some parts of this substitute may be germane. Some parts of it may relate to this section; but it is all coupled together with power which Congress can not confer upon any body so created by it, and therefore subject to the point of order.

Mr. STEVENS of New Hampshire. Will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. STEVENS of New Hampshire. Is not the gentleman arguing a constitutional question instead of a point of order?

Mr. BARTLETT. I am undertaking to argue the question of order; and if in calling the attention of the Chair to the provisions of the substitute I point out that it clearly violates the Constitution I think it is a very proper thing to suggest to the Chair that we can not by a bill which proposes merely to create a commission to ascertain certain information and to report it, and whose duties are confined solely to investigation and the making of reports, confer upon that commission judicial powers—not simply ministerial powers, but powers which you would confer upon a court to restrain by an order—that such a proposition is not germane to this section nor germane to this bill.

Mr. STEVENS of New Hampshire. Mr. Chairman, section 11 provides that the commission shall make reports to the President whenever they discover the existence of any unfair or oppressive methods of competition. The amendment which I offer concerns entirely unfair competition and oppressive methods in commerce, and, instead of making a report to somebody, directs the commission, under the power conferred in the amendment, to restrain and prevent that sort of unfair competition. If this amendment is not germane to this bill, then half the amendments which have been offered here to-day are not germane.

It is true that the Covington bill confers no actual power upon the commission, but that was a matter of the discretion of a majority of the committee. Does the gentleman claim that this committee had no authority to give an interstate trade commission any power, just because in its judgment it was unwise to do so? And is any Member prevented from offering an amendment here that will give this commission some power merely because the majority of the committee did not see fit to report such a provision? There were a dozen different trade commis-

sion bills before our committee, which were discussed in hearing after hearing, and many of them went a great deal further in granting power to this commission than my amendment does.

The gentleman says this amendment can not be considered here, because Congress can not grant any such power to any commission. I think the gentleman is entirely mistaken on his question of constitutional law. If he is correct, and Congress can not give an interstate trade commission power to enforce certain rules and laws laid down by Congress itself, then your whole Interstate Commerce Commission law is unconstitutional.

Mr. BARTLETT. Oh, no. May I interrupt the gentleman?

Mr. STEVENS of New Hampshire. This is a question of the delegation of power.

Mr. BARTLETT. No. The Interstate Commerce Commission goes to the court to secure the enforcement of its orders.

Mr. STEVENS of New Hampshire. If the gentleman had seen fit to listen to my amendment—

Mr. BARTLETT. I did listen to it.

Mr. STEVENS of New Hampshire. This amendment merely gives the commission power to make an order, just as the Interstate Commerce Commission makes an order, and then the commission must go to the court to get the order enforced. It is just exactly as constitutional as the interstate-commerce act. I want to call the attention of the gentleman to the language of the interstate-commerce act:

All charges made for service rendered or to be rendered shall be just and reasonable.

And the commission is given power to make findings and enforce that general rule of law. On the next page it says, in section 3 of the interstate-commerce act:

It shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage.

Now, the language in my amendment is not one bit broader than that. I start out with the statement of law in exactly the same way that the interstate-commerce act starts out. The declaration in the amendment is that unfair and oppressive methods of competition are declared unlawful.

The commission is given authority, if it finds upon investigation such methods to exist, to issue an order to the corporation asking it to appear and show cause why an order should not issue restraining that particular kind of competition. It certainly is not unconstitutional to declare by law that oppressive competition is unlawful. That is one of the main objects of the Sherman antitrust law—to prevent unfair contracts in restraint of trade—and it has so been held by the Supreme Court. Mr. Chairman, I hope the gentleman from Georgia will not press his point of order on this amendment. It is certainly germane to the section, since it deals with the same subject matter that the section deals with. It is certainly germane to the bill, because it is defining the powers of the interstate trade commission.

I frankly say that I do not think the gentleman will save any time in doing it. I would like a little time to discuss the amendment, which is of tremendous importance. If we go forth to the country and tell them that we have created a great interstate trade commission, and then the general public finds that the trade commission has nothing but powers of investigation—that it is nothing but the Bureau of Corporations under another name; that it has no power to prevent unfair methods of competition—the result will be disappointing.

Mr. MURDOCK. Mr. Chairman, I would like to be heard on the point of order before the Chair rules. I would like merely to point out to the Chair that the bill is a bill to create an interstate trade commission and define its powers and duties, and for other purposes. The amendment offered by the gentleman from New Hampshire seems to be in order. It is to define the powers of the commission, and I think it is not open to the point of order made by the gentleman from Georgia.

I want to point out to the Chairman that as he rules he will define the scope of the measure. If he upholds the point of order made by the gentleman from Georgia it confines the measure within the limits of a purely investigating commission. If he overrules it he opens it up to larger powers.

Mr. MANN. Will the gentleman yield for a question?

Mr. MURDOCK. Yes.

Mr. MANN. The gentleman says that if the Chair rules that the amendment is in order, it entirely changes the scope of the bill. Is not the gentleman making the wrong argument to the Chair?

Mr. MURDOCK. No. What I meant was that it limits the scope of amendments that could be offered to it.

Mr. MANN. This amendment would entirely change the scope of the bill.

Mr. MURDOCK. I mean the scope of the amendments.

Mr. GOOD. If amendments of this character are not in order at this point, will the gentleman from Kansas state what provision of the bill they would be in order to?

Mr. MURDOCK. I do not see the point, as far as any particular section is concerned. The point I want to make is that as the Chair rules now he defines largely the character of the amendment that can be offered to the bill. As the bill stands, it provides for a commission, with powers enumerated, to investigate. The amendment offered by the gentleman from New Hampshire gives it the power to prevent unfair trade practices subject to review by the courts.

Mr. BARTLETT. As I understand, the amendment comprises two sections in the bill introduced by the gentleman from New Hampshire [Mr. STEVENS]. Mr. Chairman, replying to the suggestion of the gentleman from New Hampshire, I do not think the Democratic Party is to be held in power by exacting such extreme and unconstitutional legislation as this amendment seeks to do. The very suggestion that he makes, the suggestion that the gentleman from Kansas makes, that this amendment changes the bill from its original purpose, clearly shows that the amendment proposed changes the purpose of the bill, which is asserted to be harmless, and therefore makes it subject to a point of order.

The gentleman from New Hampshire says that the Democratic Party can not afford to go before the country with a commission bill like this merely for a commission to investigate and report the conditions of corporations engaged in interstate commerce. Mr. Chairman, it is known that this very rule which brings this bill up for consideration before this House, adopted as a Democratic policy in caucus, was for the consideration of this trade-commission bill; and then to follow it up with certain other bills in which the purposes are to make changes in the antitrust law which will protect legitimate business. This amendment which the gentleman from New Hampshire offers had better find a place, could find a place, as far as germaneness is concerned, in the bill to follow this one than to put it in where it is offered here.

As far as I am concerned, I have not yet arrived at that stage of belief that it is a part of the Democratic creed to fix prices for people engaged in interstate commerce or to go to the extreme of conferring judicial powers upon a mere commission—to give them authority to investigate and to restrain by arbitrary orders the business of a citizen engaged in interstate commerce who may justly claim that he is not violating the Sherman antitrust law, without submitting the case to the courts.

If the business of this country is to be destroyed, it ought to be done by the judgment of the court and not by the judgment of three men. Thank God, as long as that written instrument which regulates and controls us, Congress can not give judicial powers to any such commission as this bill proposes to create.

Mr. STEVENS of New Hampshire. Mr. Chairman, if the gentleman from Georgia will read the amendment he will see that it does not touch fixing prices.

Mr. BARTLETT. I did not say that it did.

Mr. STEVENS of New Hampshire. He will see that it confers no judicial powers on the trade commission any more than judicial powers are conferred on the Interstate Commerce Commission.

Mr. BARTLETT. The Supreme Court says that they did undertake to confer on the Interstate Commerce Commission judicial powers, but that Congress could not do it. It undertook to do it very much in the language of this amendment. This amendment entirely changes the character and scope and purpose of this bill, and it is virtually admitted both by the gentleman from New Hampshire [Mr. STEVENS] and the gentleman from Kansas [Mr. MURDOCK] that it does. It certainly is not germane to this section. There is no part of the bill to which it is germane, and if I be the only Democrat in the House, or the only Democrat in the United States, who is opposed to it, Mr. Chairman, I intend to voice my opposition to any such proposition as this, and I am not ashamed of that. Furthermore, Mr. Chairman, loving the teachings and the doctrines of the Democratic fathers, I am not now ready and willing to follow even a good Democrat into this maze of socialism, populism, and so-called progressivism.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. Yes.

Mr. MURDOCK. Mr. Chairman, I will state to the gentleman that I have a lively suspicion that the amendment of the gentleman from New Hampshire will go upon this bill in the Senate. When the bill comes back from the Senate, will the gentleman from Georgia vote against it?

Mr. BARTLETT. I will.

Mr. MURDOCK. Even if a Democratic caucus directs him to vote for it?

Mr. BARTLETT. Mr. Chairman, a Democratic caucus can not compel me to vote for an amendment which I believe is against the Constitution of the United States, as I believe this to be.

The CHAIRMAN. The amendment of the gentleman from New Hampshire is to section 11 of the bill. That section merely directs the commission to make a report of certain of its findings to the President. The amendment proposed by the gentleman to the section, and which, of course, is not offered as a separate section to the bill, embraces a number of substantive propositions, which, under the decisions relating to germaneness, would not bring it within the rule. The Chair, therefore, sustains the point of order.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Mr. MORGAN of Oklahoma offers as a substitute for section 11, on page 9, the following:

"SEC. 11. That when in the course of any investigation, or through any other reliable source, the commission shall obtain information that any corporation subject to the provisions of section 9 of this act, in conducting its business, is using any unfair competition or practice, the said corporation shall be cited to appear before said commission and a hearing shall be had thereon. If the commission shall find that the said corporation is or has been engaged in unfair competition or practices, it shall make an order commanding the said corporation to cease engaging in said unfair competition or practice, and any violation of said order by said corporation shall constitute a misdemeanor, for which offense it may be punished by a fine of not to exceed \$5,000."

Mr. ADAMSON. Mr. Chairman, I make the point of order to that on the same ground on which the other went out, and also upon the ground that most of it is a repetition of what we voted down.

Mr. MORGAN of Oklahoma. Mr. Chairman, I would like to be heard upon the point of order.

Mr. ADAMSON. Mr. Chairman, before the gentleman is heard I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 15613 and other bills, and had come to no resolution thereon.

#### ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 16508. An act making appropriations to supply further urgent deficiencies in appropriations for the fiscal year 1914, and for other purposes; and

H. R. 12806. An act authorizing the Secretary of War to grant the use of the Fort McHenry Military Reservation, in the State of Maryland, to the mayor and city council of Baltimore, a municipal corporation of the State of Maryland, making certain provisions in connection therewith, providing access to and from the site of the new immigration station heretofore set aside.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. HILL, for 10 days.

#### INTERSTATE TRADE COMMISSION.

The SPEAKER. Under the special order the House will resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the interstate trade commission bill and other bills.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15613 and other bills, with Mr. HULL in the chair.

Mr. MORGAN of Oklahoma. Mr. Chairman, the ruling on the point of order against the amendment offered by the gentleman from New Hampshire [Mr. STEVENS], I believe, is not a precedent as against the amendment which I have offered. Section 11 provides that when in the course of any investigation made under the act the commission shall obtain information concerning any unfair competition of practice, and so forth, and the fore part of the amendment which I have offered is in the exact language almost of the bill. Section 11 in the bill goes on, then, to say what the commission shall do—that it shall report such facts to the President to aid him in making recommendations to Congress for legislation in relation to the regulation of commerce, and the information so obtained and report thereof shall be made public by the commission. The Chair will observe that the only way in which I change

that provision in this bill is by directing the commission to do another thing instead of reporting to the President. The amendment which I offer directs the commission to cite the corporation to appear, and gives the commission the authority to make an order, but does not give the commission authority, or attempt to give the commission authority, to enforce that order—absolutely no power. The only effect of that finding would be the moral effect, which is right in line with the language of this section in the bill, because the moral effect, so to speak, of reporting to the President, that he might recommend to Congress for legislation, would be of exactly the same character of procedure. The only thing is that I think it better by the terms of my amendment to let the commission make a finding, but not give the commission power to enforce that, and then I provide that a person who shall offend by repeating that practice shall be subject to fine. The bill contains several provisions making it an offense for corporations to refuse to make reports, and so forth, so that the latter part of this amendment is not objectionable, because the bill contains many provisions, or several, at least, where a corporation may be fined for offending any provision of the bill. I do not think the amendment is subject to the point of order made against the other amendment.

The CHAIRMAN. The Chair is of opinion that under a long line of precedents relating to the question of germaneness the amendment of the gentleman offered to section 11 is subject to the point of order made against it, and is constrained to sustain the point of order.

Mr. MORGAN of Oklahoma. Then, Mr. Chairman, I will offer this amendment as a new section to follow section 11.

Mr. ADAMSON. Mr. Chairman, I make the same point of order against that as not germane. It changes the entire character of the bill. This bill proposes a scheme to establish a tribunal to make investigations and report with a view to aiding in the enactment of certain legislation and the enforcement of law, and the gentleman proposes to change this into an entirely different tribunal, which will pass arbitrary judgment without any rule or guide, and sign orders as to things it considers unfair and improper and punish if people fail to observe the orders. It takes a tribunal established for one purpose, clearly depicted throughout the whole course of the bill, and transforms it into an entirely different tribunal for an entirely different purpose.

Mr. MORGAN of Oklahoma. Will the gentleman yield for a question?

Mr. ADAMSON. Certainly.

Mr. MORGAN of Oklahoma. Does the gentleman contend that any amendment which gives the commission additional power would not be germane to any section of the bill?

Mr. ADAMSON. These gentlemen who call themselves progressives—and it has got to be a sort of watchword or password or byword, or something, I do not know what it is; shibboleth, I suppose—just say "progressive," and they all jump up and shout "hello," "hurrah," and "hallelujah"; and every one of them, instead of progressing, is going back to the old days of absolutism, regardless of law, reason, or constitutional limitation. As I understand, they want absolute power fixed in the commission that will delegate legislative power, judicial power, executive power—even including the pardoning power—and that without due notice, process of law, or anything else. There is no sense in that, as the gentleman has asked the question, aside from the fact it is out of order. There is no legislative rule laid down, as in the case of the Interstate Commerce Commission, within which it could act if we gave it power of action. It would be absolutely void, as the gentleman asks the question, if we put it in that way; but the point of order on the gentleman's amendment is that it changes the entire character of the commission. We establish an instrumentality for the purpose of investigating to help administer the law. The gentleman proposes to confuse this establishment of this instrumentality either by implication or by the enactment, indirect or by implication, of a system of laws. We may go forward in future time to pass laws for this commission to help administer, but that is an entirely different thing; but when you adopt this amendment which the gentleman proposes you have got to imply that there is a law already enacted to guide it in its judgment and in the enforcement of its orders. This entirely changes the whole character of the commission as instituted. We propose that it shall make investigation and report; the gentleman proposes that it sit in judgment without any guiding law, rule, or reason, and pass an order that men shall go to jail if they do not observe that arbitrary order.

The CHAIRMAN. The rule is that an amendment offered as an additional section shall be germane to the portion of the bill to which it is offered. Section 11 is a provision merely

referring to clerical acts on the part of the commission. The amendment offered by the gentleman from Oklahoma [Mr. MORGAN] is entirely of a different nature, and the Chair can not see that it will be germane to this portion of the bill, and therefore the Chair sustains the point of order.

Mr. MORGAN of Oklahoma. Mr. Chairman, I would like to offer this amendment as an independent paragraph to be inserted at this point.

Mr. ADAMSON. It has just been offered as an independent section, and that is what the ruling of the Chair was on.

The CHAIRMAN. The Chair understood the gentleman to offer the amendment as a new section, and against which the gentleman from Georgia made the point of order; it perhaps by inadvertence was not reported, although it had been reported as an amendment to section 11.

Mr. MORGAN of Oklahoma. I now offer it as an independent section to be added—

Mr. ADAMSON. That is what the gentleman did do, and I made a point of order against it, and the Chair sustained it.

The CHAIRMAN. The Chair has just ruled upon the question of the gentleman offering this amendment following section 11 as an independent section.

Mr. MORGAN of Oklahoma. Yes.

Mr. ADAMSON. That is what the Chair ruled on.

Mr. MORGAN of Oklahoma. If the Chair will permit, I understood the Chair to hold that the amendment which I offered would not be germane or applicable to section 11.

Mr. ADAMSON. That is the Chair's first ruling.

Mr. MORGAN of Oklahoma. I did not understand the Chair to hold it would not be proper at any place in the bill.

The CHAIRMAN. The Chair was merely making his first ruling on the question raised at the time, and on the last point of order he ruled on the question of the germaneness of that amendment offered as a separate section.

Mr. ADAMSON. The gentleman is so progressive that he has forgotten he offered that amendment first to the paragraph and then as an independent section.

Mr. GOOD. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I have not made any observations upon this measure—

Mr. ADAMSON. If the gentleman will permit me to interrupt him, I will inquire if there are any other gentlemen who wish to speak on this section. I wish to reach an agreement.

Mr. MORGAN of Oklahoma. I would like to speak for five minutes.

Mr. STEVENS of New Hampshire. I would like to speak in opposition to the gentleman's amendment.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent that all debate on this section and amendments thereto close in 20 minutes; that gives 5 minutes to those Members who desire to speak.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that all debate on section 11 and amendments thereto be closed in 20 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. ADAMSON. And it is understood that Mr. STEVENS of Minnesota will control the time on that side and I will control the time on this side.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. GOOD].

Mr. GOOD. Mr. Chairman, when I consider that this measure has been reported to the House in response to a universal demand from all over this country for the establishment of a real trade commission with some powers, and then when I read this bill, I do not know whether to laugh or to cry. It reminds me, Mr. Chairman, very much of the description of the administration tango, which I am told is one step forward, three steps back, hesitation, side step. [Laughter and applause on the Republican side.] I want to read just a word from the Democratic platform of 1912.

Mr. SIMS. Why read it?

Mr. GOOD. I realize that it is hardly worth reading from any more, because it has been discredited at the White House, discredited in this House, discredited all over the country, and I realize the pertinency of the remarks of the gentleman from Tennessee when he asked the question, Why read from it? But I want to call the Democrats' attention to the things that they said in their platform:

A private monopoly is indefensible and intolerable. We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade.

This is the platform declaration of the Democratic Party on this great trust question. You now propose this bill as a ful-

filament of that pledge. How you thundered in your platform then; how you whisper in your performance now. The President has told you that business was disturbed and that real legislation would aggravate that disturbance. The President has harkened to big business, has turned a deaf ear to the earnest appeals of the public, and has told you to bear on the soft pedal, and you have obeyed his commands. And this worthless bill is the result.

Why, the great Democratic Party in its platform favored a declaration by law of the conditions upon which corporations shall engage in interstate trade, and yet when the gentleman from New Hampshire [Mr. STEVENS] offers an amendment providing those conditions, the Chairman rules that it is not lawful to offer an amendment to this bill, in response to that platform—the Stevens amendment that would give at least one tooth to this toothless bill. There is not in this bill a single command to the trade commission. You provide that the commission may do certain things, but where do you provide that they shall do a single thing? You will look in vain for such a provision in the bill; it is not there.

Oh, gentlemen, you misunderstand the temper of the American people when you try to trifle with their convictions in this way. Why do you not bring out a bill that means something, and that will give a commission some power to do something? The gentleman from Virginia [Mr. MONTAGUE] the other day well said that if this bill becomes a law it would be one from which you could never take anything away. No; there is nothing here to take anything from in the way of power.

Mr. MONTAGUE. Will the gentleman yield? I know the gentleman does not mean to misinterpret me in any way, but if I made any such remark as that it was not in line with the thought now in the gentleman's mind.

Mr. GOOD. I do not intend to misrepresent the gentleman in any respect. But the bill was so susceptible of that interpretation, and, together with the gentleman's speech, I thought that was what he meant.

Mr. MONTAGUE. I had no intention of using any such words. I have not gone carefully over the report of my remarks.

Mr. GOOD. The gentleman might have modified that statement. There is one bad provision in this bill, in my opinion, and one that will some time be removed, and that is the provision that gives this little, almost powerless commission the power to grant immunities to all the officers of corporations throughout this country that have been violating the laws of the United States. In your platform you said:

We condemn the action of the Republican administration in compromising with the Standard Oil Co. and the Tobacco Trust, and its failure to invoke the criminal provisions of the antitrust law against the officers of those corporation.

In response to the demand of this administration the Democratic Party now proposes to pass a law giving authority to a commission to grant immunity to the officers of the Standard Oil Co. and the Tobacco and other trusts. This is about the only real power conferred upon this commission.

In conclusion, I wish to say that during my experience in this House I do not recall where a great committee, which contains in its membership so many great men and lawyers, has brought out a bill so meaningless, so worthless, so unresponsive to the demands of the American people as the bill now before this House.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ADAMSON. Mr. Chairman, I yield five minutes to the gentleman from New Hampshire [Mr. STEVENS].

Mr. STEVENS of New Hampshire. Mr. Chairman, I have a few remarks to make about the trade-commission bill and unfair competition. I was shut out from offering my amendment, and I want to get them in under this pro forma amendment.

Mr. Chairman, I realize that the trust question and the regulation of big business by the Federal Government is a very difficult, a very complicated subject, and that it is the duty of Congress to approach it in one way conservatively, with care, and with a great deal of thought. It is true we need to know a great deal more about big business than we know to-day. It is true we need to have a commission which may get for us full and accurate information about all the big business corporations that now control our interstate commerce. But we are not entirely ignorant on this subject. While there is a great deal to know, there is a great deal that we do know. We have had investigations by a Bureau of Corporations for 10 years; we have had litigation before the Supreme Court by the Department of Justice for 25 years, and there are some things we know about big corporations and monopolies and the means by which they grow to great power and the means by which they do injury to the people and to the independent manufacturers and

business men. The investigations, the cases in the Supreme Court, have established certain facts which justify at this time the giving to this commission some power over the practices of the big corporations engaged in interstate commerce. If the gentleman will take the pains to read the testimony in the Standard Oil case or in the Tobacco case, he will discover that the chief source of power, the chief means by which these two great corporations acquired a monopoly to the great injury of the American people and to the great injury of the independent business man, was through the use of unfair, oppressive, and illegal methods of competition. And let me tell the gentlemen in the oil business and in the tobacco business to-day, in spite of the decrees of the Supreme Court, those same practices are going on to-day.

The Supreme Court is not a proper body to regulate trade practices. It neither has the information, the time, nor the training. And if we intend to regulate the practices of corporations engaged in interstate commerce we can do so only in two ways. We can follow the suggestions of the Clayton bill, attempting to define by a technical definition certain particular acts and declare them to be crimes and misdemeanors, and wait for the Department of Justice to enforce the law. I do not wish to criticize the Judiciary Committee, but I think the members who have worked on the first four sections, which undertake to define certain trade practices and make them misdemeanors, realize even better than I do the tremendous difficulties of any such task. Those sections of the Clayton bill as they stand to-day, after months and months of work by capable lawyers, hit things that you do not want to hit and let things go that you do not want to let go.

Mr. FESS. Will the gentleman yield?

Mr. STEVENS of New Hampshire. I have only five minutes.

I want to point out that the criminal court, even in dealing with simple cases of assaults and violations to persons and property, is the most ineffective branch of our judicial procedure to-day, so much so that President Taft declared that our criminal law has become a disgrace to our civilization. The criminal courts are absolutely ineffective to deal with complicated modern business conditions. That has been proved by the history of the attempts of the Department of Justice to enforce the criminal sections of the Sherman antitrust law. In the case of the great corporation, with complicated organization and with divided responsibility, it is difficult to place responsibility for any particular act. Juries will not convict. While we have had case after case where the Supreme Court has declared that corporations have violated the Sherman antitrust law, there has not been one malefactor of great wealth in jail as a result of it, and the law has been on the statute books for 25 years. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

The gentleman from Oklahoma [Mr. MORGAN] is recognized for five minutes.

Mr. MORGAN of Oklahoma. Mr. Chairman, section 11 reads as follows:

SEC. 11. That when in the course of any investigation made under this act the commission shall obtain information concerning any unfair competition or practice in commerce not necessarily constituting a violation of law by the corporation investigated it shall make report thereof to the President, to aid him in making recommendations to Congress for legislation in relation to the regulation of commerce, and the information so obtained and the report thereof shall be made public by the commission.

Now, Mr. Chairman and gentlemen of the committee, my criticism of that section is that the whole section is simply an arrangement to postpone any effective action. In a way that is one criticism I have against the entire bill. It is for the purpose of investigation, of getting information. We have been getting information for a quarter of a century. We know the condition of the industrial affairs of this country. We are familiar with the unfair practices in business. We know largely the conditions so far as there is an absence of competition and so far as monopolistic conditions exist. Now, then, after we get this information they will report it to the President, whoever he may be. Probably before they report anything we will have another President, and then that President may act on that information and report to Congress or not. But it will probably be two or three years before the President will furnish Congress the information.

Then Congress will have that matter referred to a committee. We must have another hearing and another investigation, and finally we get a bill before this House, and then it must run the gantlet, and the probabilities are that, so far as the provisions of this section are concerned, it would be absolutely 10 years before we would ever enact a statute based upon information that would be reported under that section of this bill.

The time has come for action. We have the information. We have gone through a period of agitation. We have prom-

ised the people action. The people are ready, and the way is clear, if we will only look upon those things in the right light and from the right direction. It is not a matter of being a Progressive or a Democrat or a Republican, but it is a matter of being able under the present conditions to seize the opportunity, to understand the situation, and to enact such laws as will be effective, to satisfy the people and satisfy the country, and let business go on.

My friends, this bill provides that some 1,300 corporations shall make annual reports. What good will reports do? What good does information do? What will that accomplish? We embarrass the business interests by taking the arm of the Federal Government and compelling them to go into details and report the nature and character of their business and pile up that information here among the printed archives of the Nation, and nothing is accomplished.

So my appeal here is that we broaden the purposes of this bill; that we extend the power that is given to the commission; that we do something that will tend to allay the unrest among the people and satisfy the people of this Nation that Congress is true to their interests; that while we have no desire to injure or embarrass the business interests of this country, and while we desire in the interest of the people that our business shall prosper and go on ever extending and expanding in its greatness, yet we want it to go along lines that are consistent with the rights of the people, with the public interests, and with the greatness and glory of our country. [Applause.]

Mr. ADAMSON. Mr. Chairman, let the Clerk read. The pro forma amendment is withdrawn.

The CHAIRMAN (Mr. FOSTER). The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

Sec. 12. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission to ascertain and report an appropriate form of decree therein—

Mr. DONOVAN. Mr. Chairman, in order to get the floor must I wait until the section is read?

The CHAIRMAN. Yes; until the section is read. The Clerk will read.

The Clerk continued to read, as follows:

and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

Mr. DONOVAN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Connecticut [Mr. DONOVAN] moves to strike out the last word.

Mr. DONOVAN. This being, Mr. Chairman, one of the most important measures that is to come before this Congress, I wish to call attention to the fact that from the great State of Illinois all Members have absented themselves. [Laughter.]

Mr. MURDOCK. I see a gentleman from Illinois right out there in the lobby.

Mr. DONOVAN. I want to call attention, Mr. Chairman, to the fact that all Members from the great State of Illinois have absented themselves from this Hall. [Laughter.]

Mr. STAFFORD. The gentleman is in error. Here is a gentleman from Illinois, and there is another gentleman from Illinois.

Mr. DONOVAN. The gentleman can not interrupt me except by asking through the Chair permission to submit a question. I again repeat, Mr. Chairman, that this is one of the great measures coming before Congress, and yet leaders on the other side, and would-be leaders and leaders to be, have abandoned this measure, and especially so the great leader of the State of Illinois. [Laughter.]

I withdraw the pro forma amendment, Mr. Chairman. [Laughter and applause.]

The CHAIRMAN. The gentleman from Connecticut withdraws his pro forma amendment.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment as a new section.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma [Mr. MORGAN].

The Clerk read as follows:

Mr. MORGAN of Oklahoma moves to amend by adding a new section to follow section 12, on page 10, to be numbered section 12a, as follows:

"Sec. 12a. That every practice, method, means, system, policy, device, scheme, or contrivance used by any corporation subject to the provisions of section 9 of this act in conducting its business, or in the management, control, regulation, promotion, or extension thereof, shall be just, fair, and reasonable and not contrary to public policy or dangerous to the public welfare, and every corporation subject to the pro-

visions of section 9 of this act in the conduct of its business is hereby prohibited from engaging in any practice, or from using any means, method, or system, or from pursuing any policy, or from resorting to any device, scheme, or contrivance whatsoever that is unjust, unfair, or unreasonable, or that is contrary to public policy or dangerous to the public welfare, and every act or thing in this section prohibited is hereby declared to be unlawful."

Mr. ADAMSON. Mr. Chairman, I make the point of order that that is not germane. It is not germane to that section or to any other part of the bill.

The CHAIRMAN. Does the gentleman from Oklahoma desire to be heard?

Mr. MORGAN of Oklahoma. Yes, sir. Mr. Chairman, this bill is entitled "A bill to create an interstate trade commission, to define its powers and duties, and for other purposes." That gives the purpose of the bill a very wide scope, and, in fact, you could properly offer any amendment under that title of the bill.

Now, there are a number of sections here, and you will notice that this proposed section applies only to corporations which are included within section 9 of the bill. Section 9 of the bill provides that corporations shall do certain things. Now, then, is it not germane to these provisions to say that they shall do other things? It certainly should be. If it is not germane to lay down other rules for these corporations, to say what other things they shall do—if not, then it seems to me there is no use in going through the farce, if you will excuse that term, of offering amendments, because nothing would be germane.

Now, section 9 of the bill puts certain corporations—

Mr. ADAMSON. Mr. Chairman, if the gentleman will permit, that has no application to section 9 of the bill, or section 11, or section 12. It has no application to any of them.

Mr. MORGAN of Oklahoma. This is not an amendment to section 9.

Mr. ADAMSON. You put it in as "section 12a."

Mr. MORGAN of Oklahoma. I offer it as "section 12a." Now, if you can require under section 9 that certain corporations—

Mr. COVINGTON. Mr. Chairman, will the gentleman yield for a question?

Mr. MORGAN of Oklahoma. Yes.

Mr. COVINGTON. Is not that substantially the same amendment which was originally offered as an amendment to section 9?

Mr. MORGAN of Oklahoma. I have offered no amendment to section 9.

Mr. COVINGTON. Is not this practically the same amendment that has been once or twice offered prior to this time?

Mr. MORGAN of Oklahoma. Not that I know of. I think not.

Mr. BARTLETT. It is substantially the same.

Mr. TALCOTT of New York. It is very similar.

Mr. BARTLETT. This is offered as a new section, following section 9?

Mr. MORGAN of Oklahoma. This is offered as "section 12a."

Mr. BARTLETT. Is not this a new addition to section 9?

Mr. MORGAN of Oklahoma. No. I was not here when that was considered.

Mr. COVINGTON. There was offered practically that same proposition, conferring definite administrative powers on the proposed commission, and the Chair ruled that that amendment was not germane to this bill. Now, the phraseology of the present amendment, while slightly different, practically seeks to do the same thing.

Mr. MORGAN of Oklahoma. I think, Mr. Chairman, the gentleman has not read this amendment. This provision does not give that commission any power. It simply says that—

Every practice, method, means, system, policy, device, scheme, or contrivance used by any corporation subject to the provisions of section 9 of this act shall be just, fair, and reasonable.

This amendment does not give a particle of power to the commission. It simply lays down a general rule that shall apply to these corporations that you include in section 9, and nothing else.

Mr. CULLOP. Will the gentleman permit a question there?

Mr. MORGAN of Oklahoma. Certainly.

Mr. CULLOP. As I understand, the gentleman's amendment does not have anything to do, so far as the powers of the commission created by this bill are concerned, but it only puts the corporation under certain restrictions and limitations that are not now included in this bill.

Mr. MORGAN of Oklahoma. That are not now included in section 9 of the bill; yes.

Mr. CULLOP. Therefore it is legislation upon the same subject, germane to the question that is being considered, and the only question is, Is it extending the powers of the law?

Mr. MORGAN of Oklahoma. Yes.

Mr. CULLOP. Putting some teeth into it.

Mr. MORGAN of Oklahoma. Yes.

Mr. ADAMSON. Will the gentleman yield?

Mr. MORGAN of Oklahoma. Certainly.

Mr. ADAMSON. Is not this the effect of it, that it does something of an entirely different character than what is done in section 9, and puts teeth into an animal that does not use teeth?

Mr. MURDOCK. There is no question about putting teeth into it.

Mr. ADAMSON. This animal was not made to have that kind of teeth.

The CHAIRMAN. Section 9 provides for the making of annual reports. The amendment offered by the gentleman from Oklahoma [Mr. MORGAN] as a new section, to be known as section 12a, provides a different method of management of corporations, which the Chair does not believe would be germane, especially to this part of the bill. So the Chair sustains the point of order.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer another amendment, to be known as section 12a.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma.

The Clerk read as follows:

Amend by adding a new section on page 10 to follow section 12, and to be numbered 12a, as follows:

"Sec. 12a. That every corporation subject to the provisions of section 9 of this act shall deal justly and fairly with competitors and the public, and it shall be unlawful for any such corporation to grant to any person or persons any special privilege or advantage which shall be unjust and unfair to others, or unjustly and unreasonably discriminatory against others, or to enter into any special contract, agreement, or arrangement with any person or persons which shall be unjustly and unreasonably discriminatory against others, or which shall give to such person or persons an unfair and unjust advantage over others, or that shall give to the people of any locality or section of the country any unfair, unjust, or unreasonable advantage over the people of any other locality or section of the country, or that shall be contrary to public policy or dangerous to the public welfare, and any and all the acts or things in this section declared to be unlawful are hereby prohibited."

Mr. ADAMSON. Mr. Chairman, I make the point of order that that is covered by the ruling just made by the Chair.

The CHAIRMAN. The Chair thinks this is covered by the previous ruling. Therefore the Chair sustains the point of order.

Mr. MORGAN of Oklahoma. Mr. Chairman, I move to strike out the last word.

Mr. ADAMSON. I wish to inquire if anybody else desires to debate this question. If not, let the gentleman proceed.

Mr. MORGAN of Oklahoma. Mr. Chairman, my idea is that there ought to be some general statute prescribing in general terms what is unjust discrimination. It is impossible to prohibit all the acts specifically. We can only prohibit a few. For instance, in the so-called Clayton bill, which comes from the Committee on the Judiciary after three or four months of hard work and investigation, there are four or five things prohibited. Even there we enter upon a dangerous course, because there is always danger when you undertake to prohibit things in bills.

In criminal matters relating to individuals we prohibit the doing of certain things, and we have a long list of crimes and of things which are prohibited. As a rule, our criminal laws only prohibit things which are immoral; but when we come to prohibit things which are involved in business transactions, when we come by prohibition to make crimes of certain things which are done in business, in commerce, in trade, we are entering not only upon a difficult but a dangerous field, dangerous to business, and very difficult to carry out without doing more injury than good. But if we enact a general statute, then the courts or the commission may enforce that general statute, and all kinds of discrimination will be included. Take the interstate-commerce act. In the very first act, when we created the Interstate Commerce Commission, there were a few things, such as rebates, that were prohibited; but there was a general clause in that bill that defined all kinds of unjust discrimination and prohibited them; and it is under that general clause that the Interstate Commerce Commission has been given power to regulate, to reach out, to meet conditions, to reach certain specific acts or practices that have grown up from time to time. So I think it is very important that we enter upon the same kind of legislation, and that we have a general statute. Indeed, the Sherman act is a model of legislation in general terms, a model of generalities, so to speak. I think this section which I have presented, being general in its terms, would include not only those things which we now recognize as unjust discriminations, but would apply to others arising in the future. And while no doubt the language might be improved, yet something along that line ought to be done. I believe the Hon. Seth Low and a

number of other gentlemen, among the most eminent in this country, appeared before our committee and insisted that we ought to have this kind of legislation.

Mr. ADAMSON. Mr. Chairman, let the Clerk read.

The CHAIRMAN. If there is no objection, the pro forma amendment will be considered as withdrawn.

The Clerk read as follows:

Sec. 13. That wherever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, the commission shall have power, and it shall be its duty, upon its own initiative or upon the application of the Attorney General, to make investigation of the manner in which the decree has been or is being carried out. It shall transmit to the Attorney General a report embodying its findings as a result of any such investigation, and the report shall be made public in the discretion of the commission.

Mr. TOWNER. Mr. Chairman, I move to strike out the last word, for the purpose of calling the attention of the committee to what I think is an unfortunate use of the word "wherever" in the first line. Certainly that is not what is intended. The adverb of place is not appropriate in that connection. I suggest that what ought to be done is to strike out the word "wherever" and insert in lieu thereof the words "in any case wherein," so that it will read: "That in any case wherein a final decree has been entered." It is useless for us to offer amendments, because they are voted down; but I hope the committee will see the appropriateness of adopting that suggestion.

I would like also to call the attention of the committee to the use of the word "any" in this section, in line 3, on page 11. That is an unfortunate use of the word; either it should be "every" or the word should be omitted altogether. It means "every such investigation" if it means anything.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

The Clerk read as follows:

Sec. 14. That any person who shall willfully make any false entry or statement in any report required to be made under this act shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than \$5,000, or to imprisonment for not more than three years, or both fine and imprisonment.

Mr. TOWNER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 11, line 10, after the word "both," insert the word "such."

Mr. TOWNER. Mr. Chairman, I think it is unnecessary to call attention of the committee to the appropriateness of the insertion of this word. Of course it does not mean to leave the power of fine and imprisonment in the discretion of the court, but it means that the court may, if it thinks best, inflict fine and imprisonment within the limits previously stated as it might deem proper.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Sec. 15. That any officer or employee of the commission who shall make public any information obtained by the commission without its authority, or as directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

Mr. TOWNER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 11, line 18, after the word "by," insert the words "both such."

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Sec. 16. That for the purposes of this act, and in aid of its powers of investigation herein granted, the commission shall have and exercise the same powers conferred upon the Interstate Commerce Commission in the acts to regulate commerce to subpoena and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths. All the requirements, obligations, liabilities, and immunities imposed or conferred by said acts to regulate commerce and by the act in relation to testimony before the Interstate Commerce Commission, approved February 11, 1893, and the act defining immunity, approved June 13, 1906, shall apply to witnesses, testimony, and documentary evidence before the commission.

Mr. COVINGTON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 12, line 7, strike out "thirteenth" and insert "thirtieth."

The question was taken, and the amendment was agreed to.

Mr. TOWNER. Mr. Chairman, I move to strike out the last word. I do so, Mr. Chairman, for the purpose of calling the committee's attention to a little newspaper statement published in the Washington Times.

Mr. ADAMSON. Will the gentleman yield for me to ask a question?

Mr. TOWNER. Yes.

Mr. ADAMSON. I want to know if there are any other amendments to this paragraph?

Mr. GOOD. I have an amendment to the paragraph.

Mr. STAFFORD. The gentleman from Oklahoma wants to offer an amendment as a new section. I suppose that would be to this paragraph.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent that debate on this section and amendments thereto close in 20 minutes.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that debate on this section and amendments thereto close in 20 minutes. Is there objection?

There was no objection.

Mr. TOWNER. Mr. Chairman, I desire to call the attention of the committee to an article that was published in the Washington Times day before yesterday. It is headed "Want more teeth in Wilson antitrust bills."

I will read it for the enlightenment of the committee, and especially for the gentleman having charge of this bill:

WANT MORE "TEETH" IN WILSON ANTITRUST BILLS.

Efforts were made to-day by Congressman STEVENS of New Hampshire and Louis D. Brandeis, former counsel to the Interstate Commerce Commission, to persuade President Wilson to permit more "teeth" to be placed in the administration antitrust bills. The callers presented their views to the President and urged him to consent to amendments to the bills after they have reached the Senate.

The President did not commit himself. It is not thought likely he will permit any changes at this time.

During the debate on this bill in the House there have been many amendments presented, some of them substantive, some of them merely to correct the text of the bill, and some to correct both grammatical and other errors; but the committee would not allow a single one of these amendments to be adopted. They have all been voted down by the committee having charge of this bill. Now, we know the reason. It is not the House of Representatives that is legislating; it is the President of the United States, who says that these bills must not be changed from the form in which they have received his approval. These gentlemen sit here and pretend to legislate for the people, pretend to represent their constituencies, pretend to act upon the merits of the case; but they are merely recording the declared instructions of the President of the United States in regard to these trust bills. What a farce it is to call it by the name of legislation. These gentlemen are not doing what they want to do. They are intelligent men; they are not doing what they think best, although their judgment is good. They would be perfectly willing to accept amendments that appeal to their reason if they dared; but evidently they do not dare to do so. They are here under instructions. This bill, and I presume the other bills, are to be forced through under whip and spur, just as they have been written, and then sent to the Senate, and it is exceedingly doubtful whether the President will allow any amendments to be made there. This is not legislating for the people. It is no wonder that there are no teeth in this bill. It is no wonder that they are not to be considered on their merits. Evidently the President has determined that he will not allow the great interests of this country to even think they will be injured in any possible way by his trust bills. The trust bills are not even to scare any of the great industries of the country. The President now evidently intends to conciliate them. So, Mr. Chairman, we have been going through the farce of a pretended consideration of this bill and not a real one. I presume we will go through the farce of a pretended consideration of the other bills. But the result is all determined—all declared. These gentlemen have received their instructions and obediently they will obey.

Mr. COVINGTON. Mr. Speaker, I move to strike out the last word.

Mr. DONOVAN. Mr. Chairman, a point of order. The debate has been fixed for a certain time, and the gentleman from Maryland is not included.

Mr. ADAMSON. Mr. Chairman, I have five minutes, which I will yield to the gentleman from Maryland.

The CHAIRMAN. The Chair will state to the gentleman from Connecticut that the debate was limited to 20 minutes, 15 minutes to be occupied by the gentleman from Iowa [Mr. TOWNER], the gentleman from Ohio [Mr. WILLIS], and the gentleman from Oklahoma [Mr. MORGAN].

Mr. COVINGTON. Mr. Chairman, I will surrender the floor and wait until these gentlemen finish.

Mr. DONOVAN. But the gentleman from Minnesota [Mr. STEVENS] has the other five minutes.

The CHAIRMAN. The gentleman is in error.

Mr. ADAMSON. As soon as the gentleman from Oklahoma concludes I will yield five minutes to the gentleman from Maryland.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Mr. MORGAN of Oklahoma moves to amend by adding a new section on page 12, to follow section 16, and to be numbered section 16A, as follows:

"SEC. 16a. That when the commission, through any investigation it may make, reports it may receive, or from any other trustworthy source shall obtain reliable information that any corporation subject to the provisions of section 9 of this act, by reason of the nature or extent of its business, or from any other reason or cause, has become a virtual monopoly, or is able to control arbitrarily the prices of its products, the commission is hereby authorized and empowered to cite such corporation to appear before it for a hearing thereon. If after full hearing thereon the commission shall find that the said corporation is a virtual monopoly or that said corporation is able to control arbitrarily the prices of its products, the said corporation shall thereafter be subject to the control of the commission as to its practices in conducting its business and as to the prices of its products, to the same extent and in like manner that common carriers are subject to the control of the Interstate Commerce Commission: *Provided*, That after any such finding shall be made by the commission with reference to any corporation the prices at which such corporation shall sell its products shall be just and reasonable and its practices in business shall be just and fair and not unreasonably discriminatory against any competitor, person, or locality."

Mr. ADAMSON. Mr. Chairman, I make the point of order against that, that it is obnoxious to every objection that has been covered by every ruling that has been made by the Chair in the last two hours.

Mr. MORGAN of Oklahoma. I suppose I may have my five minutes?

Mr. ADAMSON. I have no objection to the gentleman having five minutes, but I make the point of order. I have no objection, if the gentleman is offering that as a part of his speech, but if he wants it voted upon, I insist upon the point of order.

Mr. MORGAN of Oklahoma. Mr. Chairman, I do not care for that.

Mr. GOOD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GOOD. I desire to move to strike out section 16, and before I obtain the floor to do that the gentleman from Oklahoma has offered an amendment in the nature of a new section, to come in at the conclusion of section 16. I desire to inquire of the Chair if the consideration of this new paragraph at this time would preclude my offering the amendment. If so, I desire to offer a preferential motion.

Mr. ADAMSON. We have an agreement by unanimous consent to close debate on this section and all amendments thereto in 20 minutes. The gentleman can offer amendments, of course, if he can get the floor; but the gentleman from Oklahoma has offered an amendment and I have made a point of order against the amendment.

Mr. GOOD. Mr. Chairman, I do not care when my motion is offered; I only desire that I should not be cut out of the right to offer it.

The CHAIRMAN (Mr. HULL). The amendment which the gentleman from Iowa suggests would be in order under the unanimous-consent agreement, as the Chair is advised.

Mr. ADAMSON. He can offer it. I do not know whether it will be in order.

Mr. DONOVAN. But he has no time in which he will have the opportunity to speak to it.

Mr. STEVENS of Minnesota. Oh, yes; five minutes were reserved to the gentleman from Iowa [Mr. Good].

Mr. ADAMSON. Mr. Chairman, there is a point of order pending against the motion to amend made by the gentleman from Oklahoma.

The CHAIRMAN. The Chair is under the impression that the amendment offered by the gentleman from Oklahoma being offered as a new section, would upon that ground not be in order pending the carrying out of the unanimous-consent agreement with respect to this section.

Mr. ADAMSON. But, Mr. Chairman, I make the point of order upon the ground that it is not germane to this part of the bill or any other part of the bill; that it changes the entire character of the bill itself. The amendment proposes to confer upon this commission arbitrary powers unauthorized by law and contrary to the purpose of the bill, changing its character entirely. I object to it because it is not germane to this part of the bill or any other part of the bill.

The CHAIRMAN. For the present the Chair sustains the point of order upon the ground which is stated, and recognizes the gentleman from Iowa to offer his amendment.

Mr. DONOVAN. But the gentleman from Oklahoma has five minutes.

Mr. ADAMSON. He can have his five minutes. When he got the floor he offered his amendment.

Mr. GARNER. Mr. Chairman, the reporter's notes will show that unanimous consent was had that there be 20 minutes of debate on this paragraph and all amendments thereto, 5 minutes to be controlled by the gentleman from Iowa [Mr. TOWNER], 5 minutes by the gentleman from Oklahoma [Mr. MORGAN], 5 minutes by the gentleman from Iowa [Mr. GOOD], and 5 minutes by the gentleman from Georgia [Mr. ADAMSON]. I do not think that could possibly cut the gentleman out of his time.

The CHAIRMAN. It was not the intention of the Chair to eliminate the gentleman from Oklahoma except in respect to offering a new section to the bill at this time.

Mr. ADAMSON. The gentleman took the floor and offered his amendment, and when he offered it I made the point of order against it on all the grounds that I have stated.

The CHAIRMAN. And the Chair sustains the point of order upon the grounds stated by the Chair.

Mr. STEVENS of Minnesota. But the gentleman has not been recognized for his five minutes.

The CHAIRMAN. The Chair is about to recognize the gentleman from Oklahoma. The gentleman from Oklahoma is recognized for five minutes.

Mr. MORGAN of Oklahoma. Mr. Chairman, there was so much confusion that I do not think very many understood the contents of this proposed new section. It provides, in substance, that when this commission on investigation or through any other source shall have information that a certain corporation is a virtual monopoly, or has the power through the extent of its business or otherwise to arbitrarily control the prices of its products, that that corporation shall be cited to appear before the commission in order that there shall be a hearing, and if the commission shall so find then thereafter the corporation in the sale of its products shall sell them at reasonable prices. It will be noticed that it applies only to corporations which have been investigated, which have had a hearing, and where there has been a finding that they are virtual monopolies, or that they possess power to arbitrarily control the prices, and in that case the law comes in and gives this commission authority to control those prices, the same as the Interstate Commerce Commission has to control the charges of transportation companies.

I know it is considered very radical to undertake to control in any manner the prices of the products of private corporations, and yet when we enacted the Sherman antitrust law the object of that law was to control prices, not directly, but indirectly, because the object of that law is to maintain competition; and every syllable of this bill, the purpose of every investigation, the purpose of every antitrust enactment, is indirect control of prices. In respect to public utility companies and common carriers, in the last quarter of a century we have moved along until it is conceded generally that their prices must be controlled, and why? Because they are monopolies to a certain extent.

Now, then, if it is proper to control the prices of the public utility companies and carrier companies on the ground that they are monopolies, why is it not also proper that when we find, through some proper proceedings, that corporations like the Standard Oil Co. or other large corporations have the power to control prices at which their products are sold, then why should not we, by the same logic and for the same purpose of protecting the people and the public, why should not the National Government step in and control prices? Now, I have here an address delivered by Theodore Roosevelt on February 21, 1912. The gentleman from Kansas [Mr. MURDOCK] is absent, but I presume he will consent to my quoting from Col. Roosevelt—

Mr. ADAMSON. Does the gentleman have to get his consent?

Mr. MORGAN of Oklahoma. Col. Roosevelt says:

Where regulation by competition (which is, of course, preferable) proves insufficient, we should not shrink from bringing governmental regulations to the point of control of monopoly prices, if it should ever become necessary to do so, just as in exceptional cases railway rates are now regulated.

I hold here the decision referred to by my colleague [Mr. MURRAY of Oklahoma] in the German Alliance Insurance Co. case, rendered in the Supreme Court. Before this decision was rendered insurance companies were regarded as private business, private corporations. The State of Kansas gave the insurance commissioner the power to fix the rates of insurance companies if they were unreasonable. The case went finally to the Supreme Court of the United States, and the Supreme Court holds that while insurance companies are private business, they have become so impressed with a public use, they have become of such public consequence, that it is within the power of the State to fix their charges. Now, then, the power of the State, of course, comes from a different source from the power of the National Government.

The State acts through its police power. Congress acts through the clause of the Constitution which gives Congress the power to regulate commerce among the several States and with foreign countries, or under the public-welfare clause. But the police power of the State is broad enough to include the power to legislate when necessary to protect the public welfare. So the Federal Government unquestionably has the power to regulate the prices and charges as well as the practices of industrial corporations which have by the nature and character of their business become so impressed with a public use that they have become of public consequence.

There was a time when the railways engaged in interstate commerce denied the right of the National Government to control their practices and charges. They resisted to the last every attempt of the National Government to exercise any control over them; but they had to surrender. Public-utility companies denied the right of the State to control their practices or charges. They did not willingly submit to control; they fought to the last; but the courts of highest authority sustained the statutes giving commissions the power to regulate their rates and charges.

Now, we have industrial corporations engaged in interstate commerce possessed with the same monopolistic power. They are artificial persons—corporations existing by virtue of the law. It is through public law that such corporations have existence and in corporate form are permitted to do business. We have the same right, the same power, and there is the same public demand that we control the practices and prices of industrial corporations that possess arbitrary power to control prices that there is to control the practices and charges of public-utility companies and transportation corporations. But my proposition would affect no corporations except those which, after a full hearing, have been found to possess the power to arbitrarily fix the prices of their products. I believe I have presented a practicable remedy—a procedure that may be pursued in an orderly way. Why not take one step in advance, and adopt a method that in a measure would protect the people from being compelled to pay any unjust tribute to our gigantic business corporations?

Mr. GOOD. Mr. Chairman, I move to strike out section 16, commencing line 20, page 11, and ending line 9, page 12.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by striking out all of section 16, on pages 11 and 12.

Mr. GOOD. Mr. Chairman, this paragraph is the one that authorizes the commission to compel the production of books and papers and testimony, and then contains this provision, which it must contain in order to make it a constitutional provision:

All the requirements, obligations, liabilities, and immunities imposed or conferred by said acts to regulate commerce and by the act in relation to testimony before the Interstate Commerce Commission, approved February 11, 1893, and the act defining immunity, approved June 13, 1906, shall apply to witnesses, testimony, and documentary evidence before the commission.

Mr. Chairman, I am opposed to granting to any man or to any commission the power to grant immunities to wrongdoers. That power was rightly lodged with the Attorney General of the United States, and it should not be lodged with the numerous commissions that Congress might from time to time authorize. A part of the act of February 11, 1893, is as follows:

But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, before said commission or in obedience to its subpoena or the subpoena of either of them, or in any such proceedings.

Take the case that is now before the public mind. The newspapers report that Mr. Mellen, the president of the New Haven & Hartford road, went to the Attorney General and stated that he was willing to confess to all the sins that have been committed by the officers of that great corporation—and we all know they have committed many of them—if he would be granted immunity from prosecution.

The Attorney General advised him that he had enough evidence to send him to the penitentiary. Mr. Mellen then in his desire for this immunity went to Mr. Folk, counsel for the Interstate Commerce Commission, and that gentleman, who always wants to be in the limelight and occupy the headlines, granted the immunity and received the testimony. Some people think the great Interstate Commerce Commission should not be clothed with this great power. Think of what we are doing now by enacting section 16. We grant to this little trade commission the power to grant immunity to the officers of the Standard Oil Co., to the officers of the Tobacco Trust, to the officers of every trust throughout the length and breadth of this

land, no matter how many times they have violated the law, if they will simply come to the commission and give testimony. If they come before the commission and give testimony, then they are immune from prosecution and from the payment of any fine, penalty, or anything of that kind. Seriously, gentlemen, and we ought to act seriously on this bill, notwithstanding the fact that men on both sides of the House have been laughing about it. We all know that it is not responsive to a public sentiment of the people. Down deep in their hearts Members know they do not mean anything by passing this bill; that it will never become a law. Yet while you are fooling the public you ought not to write in the statutes of this country a provision that is going to give an immunity bath to all wrongdoers—and there are lots of them. What would happen if this provision were left out? Men would come before that commission, and if they refused to testify the commission could not make them testify; but the commission could go to the Attorney General of the United States and say, "This person, who is an officer of this or that corporation, we believe is a wrongdoer. He has refused to testify, and we believe that by his testimony he would incriminate himself, and we can not grant immunity." Then the Attorney General of the United States with the great arm of justice could reach out and prosecute such men and send them where they belong. While this bill is meaningless in many respects, I ask you not to write into the laws of the United States immunity for all the officers of the great trusts and combinations of this country. [Applause on the Republican side.]

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Maryland what time remains in my control.

The CHAIRMAN. The gentleman is recognized for five minutes.

Mr. COVINGTON. Mr. Chairman, a few moments ago the gentleman from Iowa [Mr. TOWNER] read an extract from the Washington Times regarding a visit of the gentleman from New Hampshire [Mr. STEVENS], Mr. Louis D. Brandeis, and two other gentlemen to the President to suggest amendments to the pending bill. He reads that they left with little encouragement from the President, and he states that he presumes that, at the instance and dictation of the President, this House has abdicated its powers of legislation, and for that reason the membership of this House will put through this bill in the form in which it is originally reported to the Committee of the Whole. I recall that the gentleman from Iowa, when he spoke some little time ago upon this measure, stated that he expected to vote for it. I wish to ask him whether as a Republican he is accepting dictation from President Wilson and therefore expects to vote for this bill exactly as it was reported. I argue that a Republican may well accept dictation from the President. It will be for the benefit of his public service, but he ought to admit it.

Mr. TOWNER. Mr. Chairman, will the gentleman yield?

Mr. COVINGTON. I can not yield now.

Mr. TOWNER. Will you allow me to answer your question?

The CHAIRMAN. The gentleman from Maryland [Mr. COVINGTON] declines to yield.

Mr. COVINGTON. Now, it so happened that I was chairman of the subcommittee which formulated this bill, and I say here solemnly there was no dictation by anybody in its framing. I take it that gentlemen on that side of the Chamber, including the gentleman from Minnesota [Mr. STEVENS], the gentleman from Wisconsin [Mr. ESCH], and the gentleman from California [Mr. J. R. KNOWLAND], are not supporting this measure in the form in which it was originally produced by the subcommittee simply because a Democratic President in the White House is dictating to them. I certainly take it that after the course of the gentleman from California [Mr. J. R. KNOWLAND] in leading his side on the toll-question fight no one will accuse him of yielding to the dictation of the President in support of this measure. But let me say a word more. The truth is that during the whole course of the formation of this piece of legislation I never received one word from the President of the United States which indicated that he had any pride of opinion in a single line or paragraph or page of this bill. He simply stated at times his general ideas regarding the legislation. It was his duty to do that, and I think it proper that he should have been consulted as the Executive of the Nation. However, when he stated any views to me they were freely communicated to my Republican associates upon the subcommittee, and this bill, whatever be its merits, is in the fullest sense the product of that subcommittee. As I stated in my opening remarks, we accepted freely and gladly the judgment and advice of experts who came before us and the advice of able lawyers that we heard, in order to perfect the bill and make it a strong and efficient measure.

It is a piece of legislation produced in the normal way in which legislation ought to be produced, and it is not being put through this House at the dictatorial hands of an imperious President. And the fact is that President Wilson gets his results for the benefit of the people because he advises with and does not dictate to his coworkers in the legislative branch of this Government.

Mr. Chairman, one word more. The gentleman from Iowa [Mr. GOOD] has referred to the immunity clause in section 16. It is a catchy phrase to say that you are granting immunity to criminals, and at first blush it seems to be an alluring criticism of this section, but that immunity is precisely what exists to-day with the Interstate Commerce Commission. The statute which originally created immunity was found to be one of necessity with that commission. I do not say that in the future we may not have to reorganize the entire system of legal control of the various bureaus of the Government of the United States, with the Attorney General, the head of the Department of Justice, in charge of the system. That may or may not be wise. But at this time, when we are not prepared to launch on a comprehensive reorganization of the system, and when the Interstate Commerce Commission has found that in nearly every case this immunity to subordinates, who are not real malefactors of great wealth, is the only means through which to get to the bedrock of corporate corruption in this country, I state to this House that the immunity provisions of this bill are a necessity for the interstate trade commission.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ADAMSON. Mr. Chairman, I believe the amendment is a motion to strike out the section?

The CHAIRMAN. The question is on the amendment of the gentleman from Iowa [Mr. GOOD] to strike out the section.

The question was taken, and the amendment was rejected.

The Clerk concluded the reading of the bill.

Mr. ADAMSON. Mr. Chairman, I move to lay the bill aside with a favorable recommendation.

The motion was agreed to.

Mr. ADAMSON. Mr. Chairman, I believe that recognition now passes to the distinguished gentleman from North Carolina [Mr. WEBB].

#### ANTITRUST LEGISLATION.

The CHAIRMAN. Under the special order of the House, the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, is now before the committee for its consideration. Under the further terms of the special order the first reading of the bill will be dispensed with, and the Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. WEBB. Mr. Chairman—

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] is recognized for eight hours. [Applause.]

Mr. WEBB. Mr. Chairman, I would like to have the Chair notify me when I have used one hour.

Mr. Chairman, the Democratic Party in their convention in 1912, among other things, declared in favor of supplemental legislation to the now existing antitrust laws, such as prevention of holding companies, interlocking directorates, discrimination in price, and so forth. The Judiciary Committee, in obedience to that plank in the platform, for the last four or five months have sat patiently and diligently in an effort to present to this House some bill which would carry out the reasonable demand found in that platform. It is proper to say, gentlemen, that the committee has dealt with this question faithfully, conscientiously, and studiously. For nearly four months the entire membership of that committee, or as many as could attend, sat and listened to witnesses from all parts of the United States on proposed or tentative bills. The subcommittee spent much time and great patience in trying to present a bill which would remedy the evils that are almost universally complained of and at the same time unfetter and unshackle legitimate business in the United States.

At least the majority of that committee feel that we have presented a bill which to a great extent does that very thing. The minority members of the committee are not satisfied among themselves about the provisions of the bill H. R. 15657, which is now under consideration. Mr. GRAHAM of Pennsylvania, Mr. DYER, and Mr. DANFORTH, if you will read their minority report, are very insistent that we have gone entirely too far; that we have put entirely too many teeth in this bill; that it is even radical; and that the Sherman antitrust law, as it now stands, is ample to root out all monopoly and destroy all unfair restraints of trade and trade practices. On the other hand,

MESSRS. NELSON and VOLSTEAD say that it is a distinct disappointment in that we have not gone far enough; that it is a mild makeshift; that it has not teeth enough; that it is not radical at all; and that it is a sop thrown out to business. And still another minority report is filed by our good friend Mr. MORGAN of Oklahoma, and he does not exactly agree with either one of the other factions of the minority, and it is understood by the majority of the committee, although he does not agree with the majority entirely or the minority or the minority of the minority, that he proposes to vote for this bill.

I say again, gentlemen, that the committee has labored patiently and honestly. And before I proceed to discuss the bill section by section, I want to be permitted to say one word in reply to the gentleman from Iowa [Mr. TOWNER], who a moment ago read an extract from the Washington Times, suggesting that the President had dictated and dominated the construction of this entire bill. I want to tell my friend that that is absolutely unfair and untrue. The President has never at any time suggested or demanded that no amendment should be added to this bill; he has never at any time suggested that this bill should be put through as it is presented here to-day.

He has acted as any other great Executive should act who is anxious about the good of his country, about the unshackling and protection of honest business, and about the restraint and punishment of unscrupulous business. [Applause on the Democratic side.]

If, as my friend insinuates, the President has so much arbitrary power with the Democratic Members of Congress, pray tell us why the most liberal rule ever presented by the House of Representatives on any bill is before you now? The President might well have gone further if he had been dictatorial, as my friend intimates, and asked the Committee on Rules to put this bill through just as it is written, and not to allow an amendment to be offered or considered.

Mr. GARNER. And still be in entire keeping with what the Republican Party had been doing for 16 years?

Mr. WEBB. Yes. Many a time have I sat here under Republican rule and seen bills passed where no one was allowed to even offer an amendment or vote for one. But we give you 16 hours of general debate, and after the general debate is over we give you unlimited time, both on the Republican and on the Democratic side, to debate every line and section of this bill under the five-minute rule.

Mr. GARNER. And to offer any amendment which anyone wishes to offer?

Mr. WEBB. Yes. Any amendment can be offered and adopted if the House chooses. The President has not said that no amendment shall be offered or adopted to this bill. He has simply said that the general provisions of this bill meet his approval. But as to a hard-and-fast suggestion that he does not want the language of this bill added to or taken from, he has never uttered a syllable to any member of the committee who has seen him during the progress of the construction of this act to this effect.

Now, Mr. Chairman, having said that much, I am going to take it upon myself to give a running outline of the meaning and meat of each provision in this bill. I know how busy Members are, and it is no reflection upon a busy Member of this House when I say that probably not more than 10 per cent of the Members have read this bill; certainly have not read it carefully. It has only recently been reported, and Members are so busy that they can not, in the nature of things, read every bill that comes into the House; and at the risk of tiring the Members of the House, I am going to give a synopsis of the entire bill.

I anticipate that there are some Members of the House who hardly know that there is anything in this bill except the provision about labor. Now, there is a great deal more, gentlemen, as you will see, as I go along, section by section. I believe that a simple, straightforward, nontechnical statement as to its meaning may be helpful not only to the Members of the House, but to laymen who may care to know what the bill is and what it means.

Section 1, Mr. Chairman, is devoted entirely to terminology, as you will see. Section 2 provides—and let me call the attention of my friend from Iowa [Mr. TOWNER], if he is here, and that of my friend from Wisconsin [Mr. NELSON], if he is here, to the fact that Messrs. GRAHAM and DANFORTH and DYER think there are too many teeth in section 2. We start right here with the teeth they object to.

Section 2 forbids any person to discriminate in price between different purchasers of commodities in the same or different sections, if such commodities are sold for use within the United States or within any place under the jurisdiction of the United States, and if such discriminating sale is made with the purpose or intent to destroy or wrongfully injure the business of a competitor of either such purchaser or seller. The violation of

this provision subjects a person to a fine of not exceeding \$5,000 or to imprisonment not exceeding one year, or both.

This section does not apply when the discrimination in price is made on account of a difference in the grade, quality, or quantity of the commodity, or when the discrimination is only due to a difference in the cost of transportation. Nothing in this section prevents a person from selecting his own customers. The necessity for legislation of this character is apparent. Discriminating in price is a bludgeon which the trusts have often used to put competitors "out of business." For the last 20 years this practice has been one of the handmaids of monopoly, the advance guard of an army of arbitrary methods, which has injured and destroyed the business of thousands of smaller concerns.

The violation of this section subjects the person violating it to a fine of not exceeding \$5,000 or a punishment not exceeding one year's imprisonment. But we provide—

That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of transportation: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

Section 3 forbids the owner or operator of any mine—

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Tennessee?

Mr. WEBB. For a question; yes.

Mr. GARRETT of Tennessee. Do I understand that section 2 would prevent a retail merchant from discriminating in prices?

Mr. WEBB. No, sir. The retail merchant sells not in interstate commerce.

Mr. GARRETT of Tennessee. He might, of course, sell in interstate commerce, but it does not affect the general retail business?

Mr. WEBB. No, sir. That is generally intrastate, and we are dealing with interstate practices.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Wisconsin?

Mr. WEBB. Yes.

Mr. COOPER. I would like to ask the gentleman from North Carolina why the trade commission was not given specific power to enforce a provision like that of section 2, which the gentleman has just read?

Mr. WEBB. One answer to that, Mr. Chairman, is that the Committee on the Judiciary did not have the consideration of the trade commission bill. That was in the Interstate Commerce Committee. Another reason is that in this section we make it a crime punishable by a fine not exceeding \$5,000 and imprisonment not exceeding one year to violate any of the provisions of that section.

Mr. STEVENS of New Hampshire. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from New Hampshire?

Mr. WEBB. Yes.

Mr. STEVENS of New Hampshire. Does the gentleman know that amendments to the trade commission bill were ruled out of order on the ground that the Committee on Interstate and Foreign Commerce did not have jurisdiction of that subject, and that an amendment would clearly enlarge and change the scope of the bill? Apparently nobody has any jurisdiction over this sort of business. One committee has denied it, and the other committee says they could not do it because the other committee has it.

Mr. WEBB. We have exercised that jurisdiction, Mr. Chairman, in the second section of the bill.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Wisconsin?

Mr. WEBB. I do.

Mr. STAFFORD. As I understand it, the purpose here is to provide a uniform price for all persons and customers for the same quality of goods?

Mr. WEBB. And under like conditions.

Mr. STAFFORD. About which there can not be any competition at all, so far as the seller is concerned, in meeting the competition of some other competitor?

Mr. WEBB. Oh, yes; if he meets the competition of some other person, he is not meeting that competition for the purpose of destroying or wrongfully injuring his competitor.

Mr. IGOE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Missouri?

Mr. WEBB. I yield.

Mr. IGOE. Does this extend to the point of forbidding the giving of discounts on payments or discounts on goods bought in large quantities?

Mr. WEBB. Discounts are not mentioned in this section.

Mr. IGOE. Would it include discounts for payments upon a certain day?

Mr. WEBB. I can not answer that positively, but if such amounts to discrimination, directly or indirectly, the section covers it.

Mr. IGOE. It ought to.

Mr. GARNER. Not if all customers are treated exactly alike.

Mr. IGOE. A merchant might make his customer pay for that time.

Mr. WEBB. I think the seller who gives a discount to one person and not to another ought to be included within the provisions of this section, and is, in my opinion.

Mr. GARNER. He ought to be.

Mr. BARKLEY. But the purpose and object must be evil?

Mr. WEBB. Yes; the object must be evil, and to destroy the competitor or wrongfully injure him.

Mr. GARRETT of Texas. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Texas?

Mr. WEBB. Yes.

Mr. GARRETT of Texas. It is the only question I expect to ask concerning the bill. I think the whole thing is wrapped up in this language, in line 12, page 21:

That nothing herein contained shall prevent persons engaged in selling goods, wares, and merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

And section 3 refers to other matters. Now, the question I want to ask is, if a monopoly in fact has the right under this law to go out over the country and select the persons to whom it will sell, then how can you have competition when that exclusive privilege is granted to a monopoly by law?

Mr. WEBB. In the first place, the gentleman assumes that a monopoly will be permitted to operate at will in the United States. We assume that if such monopoly does exist, it will be broken up under the provisions of the Sherman antitrust law, and we allow a person to select his own customer, because it is very doubtful whether you can forbid him doing that very thing.

But just one further suggestion. You will find that the evil in selecting customers is not in the mere selection of customers, but in the selection of a customer on condition that that customer will not sell a competitive article. We destroy the right to do that and make a person guilty of crime if a trust undertakes to sell an article to a merchant on condition that that merchant shall sell no competitive article.

Mr. GARRETT of Texas. Perhaps I should not have used the word "trust"; but here is what I had in mind—I will strike out the word "trust." Suppose an individual desires to go to the Harvester Co., which is a combination of all the manufacturers of harvesters in the United States, and offers that company the price at which it is selling binders and mowers and hayrakes to another person in his town. Can he do that under this bill? Would not the manufacturer have the right to say, "No; I will not accept your money, although you offer me the same price and the same terms which I am receiving from another citizen in your town?"

Mr. WEBB. That is undoubtedly true, and that is the law to-day. We have not changed the right of a man to select his own customer; but we have changed his right to select his customer on condition that that customer will not sell any competitive goods, and that is where the evil is most widespread in this country to-day and has been for 15 years.

Mr. BARTLETT. May I ask the gentleman a question on this section?

Mr. WEBB. Yes, indeed.

Mr. BARTLETT. In what way does this section which you are now discussing change the law as it now is, as construed by the Supreme Court in the Tobacco case? Is it not a fact that one of the practices condemned by the Supreme Court in that case was the very thing that you now propose to prohibit?

Mr. WEBB. The difference between this section and the Tobacco case is this: Under this section there may be a hundred different offenses which are condemned, whereas under the Tobacco case it took all of those offenses combined to make them guilty of a restraint of interstate trade under the Sherman law. We condemn the individual acts which lead to a restraint of interstate trade, whereas at present you must show a suffi-

cient number of such acts of restraint to make such a restraint as the Supreme Court will declare illegal under the trust laws.

Mr. BARTLETT. That is an answer to my question.

Mr. OGLESBY. Will the gentleman yield for a question?

Mr. WEBB. Certainly.

Mr. OGLESBY. With regard to this particular section and the question asked by the gentleman from Texas [Mr. GARRETT], I understand that to mean—and I am asking the question to be corrected if I am in error—that if there were two merchants in a village, town, or city who wanted the agency for some article, and both of them applied to the manufacturer asking to handle that article, the manufacturer under this section would have the right to decide which one of those two men he would deal with, and which one should have the agency in that town.

Mr. WEBB. That is true.

Mr. OGLESBY. That has nothing whatever to do with the question of price.

Mr. WEBB. Not at all.

Section 3 forbids the owner or operator of any mine or any person controlling the product of any mine to arbitrarily refuse to sell such product for use within the United States. The violation of this section subjects a person to the same punishment as is described in section 2.

This section is based upon the idea that the products of mines are naturally God given, and no person ought to have the right to arbitrarily refuse to sell such products of necessity to responsible persons who wish to buy them. Often in the chill of winter the products of a few mines have been monopolized by a few dealers, and the price of coal has been advanced arbitrarily, oftentimes taking advantage of those who are too poor to resist and too weak to protest against such outrages.

Mr. GARNER. Is there much difference in principle between the mining industry and the lumber industry? Lumber is a God-given product. It gives a house to shelter people in the winter. In the way in which that industry is carried on in this country to-day, the manufacturers refuse to sell to certain lumber dealers who do not comply with the conditions of the wholesaler. I do not see much difference in the principle that you apply to the mining industry and the principle that ought to apply to the lumber industry.

Mr. WEBB. There is some force to that suggestion. In fact, there is force in the suggestion that the section be made to apply to all raw material; but I beg the House to remember that in framing antitrust laws or amendments thereto you find more difficulty than you do in the performance of any other duty in this House. If you do not believe it, try it. It is easy to rise here and talk in generalities, but when you come to write your suggestions into the mandates of law you get into great difficulty and wade in much deep water.

Mr. GARNER. I do not intend this as a criticism.

Mr. WEBB. I understand.

Mr. GARNER. I am simply directing the attention of the committee to this matter because the gentleman has said that he and his committee and the President would welcome any amendment to this bill that sought to make it a better law. I have simply made this suggestion in response to that statement.

Mr. WEBB. I answered my friend with absolute frankness.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. WEBB. Certainly.

Mr. GARRETT of Tennessee. Is the Committee on the Judiciary clear in its judgment that this section is constitutional and enforceable?

Mr. WEBB. We are as reasonably clear on that as we can be, considering the decisions in reference to our interstate-commerce powers. It does announce a new principle, but we thought it was vital and important enough to base it upon many decisions which indicate that Congress has that power. We have undoubtedly the right to exclude coal companies from using interstate instrumentalities who do not obey the law.

Mr. GARRETT of Tennessee. Undoubtedly as a negative proposition, but when you undertake to lay down an affirmative proposition, have you any precedents for that?

Mr. WEBB. As I said a moment ago, it is a new principle. Now I will yield to the gentleman from Oklahoma.

Mr. FERRIS. I am keenly interested in section 3, and I am aware of the fact that we are all hoping for a decision from the Supreme Court soon on the common-carrier proposition of pipe lines.

Mr. WEBB. The oil case?

Mr. FERRIS. Yes. I wonder if the committee has given consideration to the proposition of divorcing the production of mines from the transportation. There is the real nucleus of the trouble. For instance, in the oil proposition the Standard Oil

pipe lines and the Oil Trust, who have total control of carriage and transportation, go in and get alternative wells among the independent producers and refuse to take the oil of others because they are not common carriers. They will drain the land of oil by controlling these alternate wells. So it seems to me that two things might be considered in this section, one the bolstering up of the law of the common carrier and the other divorcing the production from transportation in any case.

Mr. WEBB. The committee did consider all that, but we felt that the control and regulation of common carriers was entirely within the jurisdiction and field of the Interstate Commerce Commission, and we had a hesitancy in stepping over on their territory.

Mr. FERRIS. But your section 3 is closely allied to that.

Mr. WEBB. Section 3 takes care of the mines, and that means gas, oil, and coal. We did not go further and try to control those things that belong to the control of the Interstate Commerce Commission.

Mr. FERRIS. But those who suffer from faulty and inefficient laws should not fall between stools. They should not be compelled to suffer. The committee should deal effectively with it.

Mr. WEBB. We went as far as the jurisdiction of our committee would warrant us in going in providing what we have in that section, and we thought it would be encroaching on the Interstate Commerce Commission's field if we undertook to go further.

Mr. GARNER. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. GARNER. The gentleman speaks of the definition of the word "mine" as including oil and gas. Does the gentleman believe that that would include oil and gas wells?

Mr. WEBB. That was our interpretation.

Mr. FERRIS. I might say that that comes under a different branch of the mineral law. Oil and gas come under the placer mining laws and coal comes under the other laws.

Mr. AVIS. Will the gentleman yield?

Mr. WEBB. I will.

Mr. AVIS. In asking the gentleman the question I expect to ask him, I want to say that I do not ask it in any partisan spirit. I come from a State that has \$26 coal mines. The bituminous coal industry employs 73,000 men. I have received letters from hundreds of coal operators, irrespective of politics, who say to me that if this section is adopted it means the destruction of the small coal producer in the State of West Virginia. With that statement I want to add further, Did this committee in reporting on this measure consider the fact—

Mr. WEBB. I hope the gentleman from West Virginia will ask his question, as I want to get through. I do not mean any discourtesy to the gentleman.

Mr. AVIS. I was trying to lead up to the point that I wanted to get at. You provide in this section that—

It shall be unlawful for the owner or operator of any mine or for any person controlling the product of any mine engaged in selling its product in commerce to refuse arbitrarily to sell such product to a responsible person—

And so forth.

Now, I have taken the trouble to find out whether that word "arbitrarily" has ever been judicially defined, and I only find two decisions. One is an English decision and one a decision from the State of West Virginia. In the English decision they held that the word "arbitrary" means "not supported by fair, solid, and substantial cause, and without reason given." The West Virginia definition says "without any reason therefor." Now, if these definitions are to apply, what, then, does the committee consider would be the meaning of "arbitrarily refused"? That is the question I am leading up to.

Mr. WEBB. Mr. Chairman, I will say to the gentleman that it is a word ordinarily used. It means to act without justification, without cause, without reason, without just excuse. I think all of those are synonyms for the word "arbitrarily."

Mr. AVIS. Then that leaves it to the court to say what is a sufficient excuse, and the committee does not attempt to do so?

Mr. WEBB. Oh, we can not define it. That is for the court to define. You can not define fraud; you can not define a great many things. You have to leave that to the court.

Mr. AVIS. Mr. Chairman, will the gentleman yield further?

Mr. WEBB. I hope the gentleman will pardon me, but I think the decisions of the courts ought to be read in the gentleman's own time.

Mr. BARKLEY. Mr. Chairman, will the gentleman yield?

Mr. WEBB. I yield to the gentleman from Kentucky.

Mr. BARKLEY. Mr. Chairman, I notice the committee permits manufacturers and dealers in products to select their customers in different portions of the country, and under section 3

certain industrial corporations are forbidden from doing that same thing. Has the committee considered whether or not that might be regarded as in a sense class legislation—permitting one class of people to do a certain thing and forbidding another class to do the same thing?

Mr. WEBB. Yes; we have gone all through that. There is quite a difference, in the first place, from the moral side on the question of policy. One is the product as it naturally lies in the bowels of the earth, placed there by God Almighty, and we think that a man who happens to own it, no matter how he happened to get title to it, ought not to have the right arbitrarily to close his fist and say that he will not sell except to a favored few, especially when the products of mines are put there for the benefit of God's creatures.

Mr. BARTON and Mr. BAILEY rose.

The CHAIRMAN. To whom does the gentleman yield?

Mr. WEBB. I am very glad to yield to any gentleman for a short question, but I can not yield for debate.

Mr. BARTON. Mr. Chairman, I understood the gentleman to say to the gentleman from Texas [Mr. GARNER] that a distinction was made in this respect, that the man who sold the coal from the mine could not select his customers, but that the man who owned the vast forests and lumber could do it. Do I understand that statement correctly?

Mr. WEBB. We have not applied it to lumber. We have applied it to the products of the mines, and, as I frankly stated to the gentleman from Texas [Mr. GARNER], there may be some good reason why it should also be applied to all raw materials, but we have not done it. Further, it may seem as if this provision is class legislation to some extent, but the Federal Constitution does not clearly forbid this kind of legislation when based on the commerce power vested in Congress. There are sections in the Constitution of the United States which forbid class legislation by the States, but these sections do not restrict Congress, though undoubtedly glaring class legislation would be repugnant to the spirit of our Constitution and the genius of our institutions.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. BAILEY. There is nothing in this section or in the bill which makes it unlawful for a mine to be shut down and prices thus to be controlled.

Mr. WEBB. No.

Mr. FERRIS. Mr. Chairman, will the gentleman yield further?

Mr. WEBB. Yes.

Mr. FERRIS. I want to inquire of the gentleman, if he will yield further, if he considered the advisability of inserting in section 3 the same regulation as to water power that he has as to the products of the mines. There is nothing on earth so susceptible of monopoly as falling water. It is not here to-day or to-morrow, but it is here for all time, and it brings light and heat and all of the multitudinous advantages that go into the home and into the city. I wondered why in the bill that the God-given commodities, the gentleman having referred to them in that term, ought not to include water. What could be more necessary than to include water power in that class?

Mr. WEBB. Mr. Chairman, I will make the same answer to my friend from Oklahoma that I made to the gentleman from Texas [Mr. GARNER]. There may be some reason for including that in this section, and it all shows the difficulty of framing a bill of this character, the difficulties that we run against when we consider it, for one man wants water power, another man wants lumber, another wants oil, another coal, and another iron included. We thought we were making a good beginning by including in it all of the products of the mine, and if that works well in the future it may be that we can include the other products which the gentlemen have suggested this afternoon.

Mr. FERRIS. The question of water power is so intensely important—

Mr. WEBB. I agree it is.

Mr. FERRIS. Because falling water is so susceptible of monopoly, its use is so universal by everyone that if there is any place on earth where it would take hold it seems to me it is right there. Of course, I am not making this in any criticism.

Mr. WEBB. I now yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Under the provisions of this section 3, would the adoption of this into law prevent a man who is losing money as a mine operator from closing down his mine?

Mr. WEBB. I think not; that would not be "arbitrary," as I think my friend knows, although he is not a lawyer, but he is a man of fine sense, and he would at once answer that question in the negative.

Mr. MADDEN. It looks to me as if it would.

Mr. COOPER. Will the gentleman permit me to ask him one question about section 2 which contains the so-called prohibition against discriminations?

Mr. WEBB. Yes, sir.

Mr. COOPER. I want to preface my question by saying that the bill seems to me expressly to permit discriminations, and on that point I will ask the gentleman how he interprets the proviso beginning on line 7:

*Provided, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of transportation.*

Observe that the proviso expressly allows discrimination on account of "quantity of commodity sold" and "difference in cost of transportation."

Now, the gentleman knows, that if a retailer buys in carload lots he pays less for goods and less for transporting them than does his small competitor who buys exactly similar goods in less-than-carload lots. This proviso specifically permits the big retailer to buy goods from a wholesaler at a less cost than his little competitor must pay to the same wholesaler, and it also permits the big man to have cheaper transportation than his little competitor can secure, and therefore the proviso gives the big man an opportunity to become bigger and bigger and more and more able to drive the little man to the wall. By this difference in the cost of exactly similar goods, bought from the same vendor, and by this difference in the cost of transportation authorized by this proviso, there is a direct permission of discrimination such as the bill was said to prohibit.

Mr. WEBB. I will say to my friend if we did not take into consideration the cost of transportation we would be accused by that side, and possibly by ours, of making the most arbitrary rule ever sought to be enacted into law. That is a business method and practice you can not get away from, and, in addition, it has been the practice from time immemorial that a man buying wholesale lots necessarily is entitled to a little more consideration or a cheaper rate than the man who buys, to use an old expression, in "drips" and "drabs," or by retail. That is a business necessity that the committee did not feel warranted in trying to disturb; and I am informed that this very provision, practically the same provision, exists in 17 or 19 of the States of the Union, and exists in the State of my friend from Wisconsin who now addresses this question to me.

Mr. COOPER. I am not attempting to argue nor make any statement as to the merits of the proposition.

The gentleman said "necessarily." Perhaps the word "customary" would be more accurate.

Mr. WEBB. I accept the gentleman's amendment.

Mr. COOPER. It is a germane amendment; entirely so. Another thing: This would allow great mail-order houses that buy in enormous quantities to retain the great advantage they have always had.

Mr. WEBB. Will the gentleman draw a section that corrects the evil he mentions and present it at the proper time?

Mr. COOPER. I am simply asking about the bill, which the gentleman defends as a measure that will prevent discriminations in business.

Mr. WEBB. I think we have very high authority for this section, and one of the authorities is the State of Wisconsin, from which the gentleman comes.

Mr. AVIS. I hope the gentleman will yield for one more question.

Mr. WEBB. I beg the gentleman's pardon, but I must get on to another section. This bill has 23 sections in it.

Mr. Chairman, section 4 provides against any person making a sale of any commodities for use in the United States, or fix a price charged therefor, or discount from, or rebate upon any such price, on condition or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, and so forth, of a competitor. A violation of this section subjects the person violating it to a fine of \$5,000 or imprisonment not exceeding one year, or both, in the discretion of the court. This section strikes at another fruitful source of monopoly or restraint of trade. I contend, Mr. Chairman, that no one has the right to sell goods to a purchaser and receive his money for them and at the same time compel such purchaser to refuse to sell a competitive article. Such contract in itself is in restraint of trade and tends directly to monopoly. This practice has been in vogue in the United States for 20 years, and there is scarcely a retail merchant throughout this broad land who has not suffered from such practice, because our country has been literally plastered with these exclusive-sale contracts. And yet our friends tell us that there are no teeth in this section of the bill.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Just for a question.

Mr. WILLIS. I wanted to ask the gentleman whether his committee considered the effect that this would have on the small producer? Now, I am asking that question because there have come to me a number of protests from small concerns. For example, I have in mind a case of a manufacturer of machine tools in my home town, a small concern that employs 40 or 50 men. They take this position, that the only way that they have been able to sell their product is by making exclusive trade agreements with agents in different cities of the United States and that if this bill be enacted into law it will permit an outsider to come in and sell the product under the name in which the product has been worked up in that town, and that will destroy their agency, and therefore will play directly into the hands of their monopolistic competitor. They are up against very severe competition, with a strong organization back of it. Now, what does the gentleman say to that?

Mr. WEBB. I think the small concern which the gentleman mentions has been compelled to adopt that method by the very trusts that first adopted it. He is compelled to adopt it as a matter of self-defense. It is one of the trust's greatest weapons to destroy the little business, which we in this section are trying to protect. The small concern can make a careful selection of a good man to push and introduce its goods, and at the same time have the advantage of not permitting the trust to go to a neighborhood and monopolize on a certain article. As it is today, the trust goes to a crossroads merchant and there binds the merchant to sell no article except an article controlled by the trust. Now, what chance has a little fellow to get in with that merchant? He can not do it. He has no place in which to sell his goods. But this section will give your independent concern a right to go to the small merchant and tell him that he is not bound to refuse to sell a competitive article. The law gives him the right to sell that trust-made article and his, too, and the little man can tell him that he would like to have his article put in stock with the other. That would be better for the independent and better for the merchant.

Mr. WILLIS. They make this further objection, that the trust, by its great wealth, is able to maintain its own distributing agencies, but that if this right which they now enjoy is taken away from them, they will have no means whatever of maintaining these agencies, not having the great wealth with which to do it. What is the gentleman's opinion of that objection?

Mr. WEBB. Well, there may be some force in that suggestion, but it is a situation that Congress can not remedy. It is just a condition that we face when we see one strong man, weighing 180 pounds, in a contest with a man who weighs 65 or 100 pounds. It is a condition we meet with—a man worth a million dollars in a contest against a fellow who has only \$500. If my friend can tell us a remedy for that, we will be glad to have it. We desire to unfetter both the merchant and the man who sells to the merchant and give him a fair field, and tell him, "You can buy from whom you please and sell wherever you please."

Mr. AVIS. Will the gentleman yield for a short question?

Mr. WEBB. Yes.

Mr. AVIS. The gentleman has stated that the purpose here is to prevent the big fellow swallowing up the little fellow. Take, for instance, the coal business. I am a small operator. I have built up a trade by years of work, and what is to prevent the big fellow from coming over and taking my whole output and destroying my trade for that particular year?

Mr. WEBB. I suppose the gentleman would not want me to say he ought to be allowed to get it "vi et armis."

Mr. AVIS. You have coal mentioned there—that you can not refuse to sell to the first responsible bidder. Suppose I am a small coal dealer, and some big man comes along and lays down his certified check—a man representing a monopoly—and says, "I bid for your entire product of coal." What is to prevent him from destroying the trade that I have been for years building up?

Mr. WEBB. You would have the right to supply your customers and continue to sell to them.

Mr. AVIS. Does not the gentleman think I would have the right to prefer one customer over another—to prefer my old customers? Yet your bill forbids that.

Mr. WEBB. You can supply one customer and not meet the demands of monopoly.

Mr. AVIS. I thought the gentleman's statement as to section 3 was to the effect that it was intended to prevent discrimination between customers who sold coal and oil and minerals.

Mr. WEBB. It is so intended, and the object of that is to prevent you from selling your entire product to a monopoly when the little man wants to buy from you.

Mr. AVIS. I can not refuse to sell my product to any responsible bidder. That is the objection I have pointed out. I do not point this out in any partisan spirit. I really and sincerely think it would destroy nearly 700 independent coal people in my country, because the big fellows would come along and say, "I am willing to take your entire product, the whole of it, or a part of it"; and yet I, as a coal dealer, may have been building up my trade for years, and the section says I must not sell my whole product to the trust.

Mr. WEBB. You have other customers in whom you have confidence, and you can sell to them.

Mr. AVIS. Evidently the gentleman does not understand me. I said that under this particular language the trust might destroy my trade.

Mr. WEBB. "Sufficient unto the day is the evil thereof." I will say to the gentleman; and I think he should quiet his fears, for the danger he fears does not lie in this section.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Wisconsin?

Mr. WEBB. Yes.

Mr. COOPER. In connection with section 4 I would like to ask the gentleman from North Carolina if there is a provision in the bill which prohibits a man selling to a purchaser on the condition that he does not buy from any other seller? Is there any provision here that would require a trust or a big manufacturer who makes a fine article to sell to the little man?

Mr. WEBB. No, sir.

Mr. COOPER. Why should there not be? That is exactly what goes on now. Suppose there are two little concerns in a given village. One of them is already engaged in selling certain articles that are useful and which have a large sale. There is a demand for another article of the same general description, but the maker of that other article will sell it to only one of those two stores in the village. Why should he not be compelled to sell to the customer, a bona fide, responsible customer, just the same as you propose to provide that the mine owner shall sell his products?

Mr. WEBB. We took this view of it: The man who, with his own industry and with his own money, manufactures or transforms the raw material into some useful object ought to have the right to select his purchaser; but we did not think that ought to apply to the man who takes products from the bowels of the earth as God deposited them.

Mr. COOPER. How would that be with a brand of flour?

Mr. WEBB. Well, there is more advancement in the manufacture of flour from the wheat than on the production of coal and oil that are simply taken from the bowels of the earth.

Mr. COOPER. We are trying to pass a law that will promote fair and square dealing and legitimate competition, are we not?

Mr. WEBB. Yes; but there are thousands of things that can not be covered by a bill of this class.

Mr. COOPER. I would like to have the gentleman assign a reason why he has not done in this bill what I have suggested. Does not the gentleman want to, or can he not do it?

Mr. WEBB. It is a question of policy. We think we ought not.

Mr. GOULDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from New York?

Mr. WEBB. Yes.

Mr. GOULDEN. I hope that my friend the new chairman of the committee will pardon a suggestion. In common with many others I am very much interested in the gentleman's statement, and if these interruptions are permitted—and the gentleman is too courteous to decline—I fear we shall not hear the gentleman complete his speech. I therefore suggest that hereafter the gentleman decline further interruptions until he can complete his able and satisfactory statement. [Applause.]

Mr. WEBB. Mr. Chairman, section 5 gives any person who may be injured in his business, by reason of anything forbidden in the antitrust laws, the right to sue for such injury in any district court where the defendant resides, or is found without respect to the amount in controversy and shall recover threefold the damages sustained, together with the cost of the suit, including a reasonable attorney's fee. This section opens the door of justice to every man, whenever he may be injured by those who violate the antitrust laws, and gives the injured party ample damages for the wrong suffered.

Section 6 provides that when the Government brings a suit in equity against an alleged trust, and the final judgment is rendered in such suit to the effect that the defendant has or has not entered into a contract or conspiracy in the form of a trust or restraint of trade or commerce, that said final judgment may be used as evidence in any other proceeding brought by an individual against the same defendant, and shall be con-

clusive evidence of the same facts and the same questions of law, in favor of or against any party in any suit brought under the provisions of the antitrust laws.

Mr. SCOTT. Will the gentleman yield?

Mr. WEBB. I hope the gentleman will wait until I get through with my statement. Then I will be glad to answer any questions.

This section also suspends the running of the statute of limitations against individuals whenever the Government brings an equity suit against any person charged with violating the antitrust laws.

Section 7 provides that the antitrust laws shall not be construed to forbid the existence and operation of fraternal, labor, consumers, agricultural or horticultural organizations, orders or associations instituted for mutual help and having no capital stock and not conducted for profit; neither shall the antitrust laws be construed to forbid or restrain individual members of such organizations from carrying out the legitimate objects of such organizations. This section also permits the operation of traffic associations which are under the supervision of the Interstate Commerce Commission.

Section 8 forbids any corporation to acquire the capital stock of another corporation when both are engaged in commerce, if the effect of such acquisition is to eliminate or substantially lessen competition between such corporations or to create a monopoly of any line of trade anywhere. Nor shall any corporation acquire the capital stock of two or more corporations engaged in commerce if the effect of such acquisition or the use of such stock, by voting or otherwise, is to eliminate or substantially lessen such competition between corporations or to create a monopoly in any line of trade anywhere.

This section exempts purchases of stock for investment solely, and where same is not used by voting or bringing about or lessening competition.

This section permits one corporation to form subsidiary corporations for the actual carrying on of their immediate lawful business, and such parent corporation may own or hold the stock of such subsidiary corporations when this does not eliminate or substantially lessen competition.

This section does not apply to stock transactions heretofore legally made.

Under this section a railroad corporation may construct branch lines, so located as to become feeders, and the parent corporation may own all of or any part of the stock of such branch lines, and a railroad corporation may acquire the stock of a branch line constructed by an independent company where there is no substantial competition between the two. A railroad company under this section is permitted to extend its lines by buying the stock of other railroad companies where there is no substantial competition between the two.

A violation of the provision of this act subjects a person to a fine of not exceeding \$5,000 or to imprisonment not exceeding one year, or both.

The common law never allowed one corporation to own the stock of another, but by degrees some of the States have relaxed this rule until the country has become burdened with pools and holding companies which are direct supports of trusts or monopolies. Pooling is practically a partnership of corporations, and their contracts have become nonenforceable, which gives them a fatal weakness. When the pool became a failure on account of this weakness the trust was formed by each corporation transferring its stock to common trustees. Thus, all of the stock of the component corporations was held by trustees, who completely controlled the business of all the corporations in the trust. Each constituent company retained its officers and continued its business, but the amount and price of its product was controlled by the trustees. This form of trust was clearly a partnership of corporations, with the business of all controlled by one head, and we are not surprised to find that this form of trust was declared illegal in the early nineties.

So the next stage of corporation partnership was the holding company, where the stock of each company is transferred to the holding corporation, and this corporation actually owns the stock of the constituent companies, making the constituent corporations subsidiary instead of independent; but in holding corporations the company controls the policy and price of commodities of constituent or subsidiary corporations.

The first State to repeal the common-law principle that any corporation could own the stock of another corporation was New Jersey. The States of Delaware, West Virginia, and Maine soon followed the lead of New Jersey.

After the holding companies came the complete merger, where the stock of the constituent companies is actually bought in and canceled, the only stock being that of the master com-

pany. This act does not prohibit all holding companies, but only those which substantially lessen competition.

Section 9 provides that after two years from the approval of the act no person who is a member of a partnership or is a director or officer of a corporation engaged in producing or selling materials or supplies or in the construction of railroads shall act as director or officer of any other corporation or common carrier to which such person sells or leases equipment or supplies, and that no officer or director of a bank shall act as director or officer of any such common carrier for which he or such bank acts as agent for or underwriter of the sale or disposal by such common carrier of its securities or from which he or such bank purchases the securities of such common carriers. That two years from the passage of this act no person shall be a director, officer, and so forth, of more than one bank or trust company at the same time if either of such banks or trust companies has deposits, capital, surplus, and undivided profits aggregating more than \$2,500,000, and no private bank or person who is director in a bank or trust company organized under the laws of a State having deposits, capital, surplus, and undivided profits aggregating more than \$2,500,000 shall be a director in any bank organized under the laws of the United States. The eligibility of a director is determined by the average amount of deposits, capital, surplus, and undivided profits, as shown by a statement of such bank filed under the law during the fiscal year preceding the date set for the annual election of directors, and when a director has been elected according to the provisions of this act it shall be lawful for him to remain such director for one year.

This section further provides that no United States banking company in a city of more than 100,000 population shall have as a director, officer, or employee any private banker or director of any other bank or trust company located in the same place.

This section does not apply to mutual savings banks without capital stock, nor does it apply to the directors of one bank or one trust company when the entire capital stock of either is owned by the stockholders of the other. Nor does it repeal the provisions of the Federal reserve act which permits a director in class A of said act to be a director of one member bank.

This section further provides that after two years from the approval of the act no person shall at the same time be a director in two or more corporations either of which has a capital, surplus, and undivided profits aggregating more than \$1,000,000 if such corporations shall have been theretofore competitors to such an extent that an elimination of competition by agreement between them would be a violation of any provision of the antitrust laws. Eligibility of stockholders under this section is determined by the aggregate capital, surplus, and undivided profits, exclusive of dividends declared but not paid, at the end of the fiscal year next preceding the election of directors, and a director who is elected under the provisions of this act may continue as such for at least one year.

Violation of the provisions of this act subjects a person to a fine of \$100 a day during the continuance of such violation, or to imprisonment not exceeding one year, or both.

Section 10 allows suit, under the antitrust law, to be brought in any district where the defendant is an inhabitant or may be found.

Section 11 provides that in suits brought by the United States subpoenas for witnesses may run into any district.

Section 12 provides that when a corporation is found guilty of violating the antitrust laws the offense shall be deemed to be also that of the individual directors, officers, and agents of such corporation who shall have authorized, ordered, or done any of the prohibited acts, and such directors or officers are deemed guilty of a misdemeanor and shall be subjected to a fine of not more than \$5,000, or to imprisonment not exceeding one year, or both. In this section we have attempted to make guilt personal, and we believe we have succeeded in doing so.

The President, in his message of January 20, 1914, on this subject, said:

We ought to see to it, and the judgment of practical and sagacious men of affairs everywhere would applaud us if we do see to it, that penalties and punishments should fall not upon business itself, to its confusion and interruption, but upon the individuals who use the instrumentalities of business to do things which public policy and sound business practice condemn. Every act of business is done at the command or upon the initiative of some ascertainable person or group of persons. These should be held individually responsible, and the punishment should fall upon them, not upon the business organization of which they make illegal use.

Section 13 gives the district courts jurisdiction to restrain and prevent violations of this act and makes it the duty of the district attorneys, under the direction of the Attorney General, to bring suits to prevent and restrain such violations. Such suits

may be brought by way of petition, and after the parties complained of shall have been duly notified, the court shall proceed to hear and determine the case. During the pendency of the suit the court may issue temporary restraining orders, and the court may require other parties to be brought before the court, whether they reside in the district or not, and subpoenas to that end may be served in any district.

Section 14 gives any person the right to sue for injunctive relief against threatened loss or damage by a violation of the antitrust laws when and under the same conditions as injunctive relief is granted under the rules governing such proceedings; and upon giving proper bond and showing that the danger of irreparable loss or damage is immediate, then a preliminary injunction may issue, but no one shall bring suit in equity for injunctive relief against a common carrier except the United States.

Section 15 regulates the issuance of injunctions and conforms largely to the rules of the United States Supreme Court.

Section 16 provides that, except as provided in section 14, a restraining or interlocutory order of injunction shall not issue, unless security is given in such manner as the court may deem proper.

Section 17 requires that all orders of injunction or restraining orders shall set forth the reasons for issuance of same, be specific in terms, and describe in reasonable detail the act sought to be restrained, and shall bind only the parties to the suit, their agents, servants, employees, attorneys, or those in actual concert with them, and who shall, by personal service or otherwise, have received actual notice of the same.

Section 18 provides that no restraining order or injunction shall be granted in a case between employer and employee or between persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the applicant, for which injury there is no adequate remedy at law, and such property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney, and, further, that no restraining order or injunction shall prohibit any person from terminating any relation of employment, or from ceasing to perform any work, or from recommending or persuading others by peaceful means so to do, or from attending at or near a house or place where any person resides or works or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or quit work, or from ceasing to patronize or to employ any party to such dispute, or from advising others by peaceful means to do so, or by paying or giving to or withholding from any strike benefits, or from peaceably assembling at any place in a lawful manner and for lawful purposes, or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

Mr. Chairman, when you read section 7, together with sections 17 and 18, the members of the Judiciary Committee declare unto this House, unto the country, and unto the laboring people that we have given them a bill of rights. We have given them a magna charta. We have given them what they have been demanding from this Congress for 20 long years, and I therefore express the hope that the sections in this bill which seem to be unsatisfactory to the trusts, monopolies, and unscrupulous business of the country—because we know that they are not particularly anxious to look after the laboring class of people—may be adopted by this committee and this House. We hear, on the other hand, that there may be some criticism from some quarter that we have not gone far enough in the interest of labor; but I appeal to the sensible men, the patriotic men on both sides of this floor, to agree that in these various sections of this bill we have given labor a bill of rights and a new charter. I trust that those who represent laboring men as I do—and in this connection I want to say that never in 11 years' service here have I voted against labor on the floor of this House or in the committee—will tell them, as I tell them as their friend, that they have a great charter in this bill, and that they ought to be thankful that it is here and be satisfied with it. I appeal to the men who represent labor directly. I have not a labor union in my district, and yet I have stood by labor and am standing by them now, because we have given them something that the head of the American Federation of Labor and other labor organizations of the United States have been clamoring for for these many years; and, having gotten it, I believe they should sing a psalm of joy and accept it as it is written in this bill.

Mr. BRYAN. Will the gentleman state what definite and particular objections he has to the amendments that the laboring men ask for—why he objects to granting them?

Mr. WEBB. I do not care to discuss that at this time for good reasons, but we shall discuss it fully later.

Mr. SWITZER. Will the gentleman yield for one question?

Mr. WEBB. Just for a question.

Mr. SWITZER. Will the gentleman please state how many members of this committee that considered this bill have coal mines in their districts?

Mr. WEBB. I have not made a poll of the committee, and do not know.

Now, Mr. Chairman, the next section of the bill is designed to give laboring men the right of trial by jury in indirect contempt cases where the contempt also involves the commission of a criminal offense either under statute or common law. That is another demand labor has made on Congress for many years. They now have it within their grasp.

Mr. J. M. C. SMITH. Will the gentleman yield?

Mr. WEBB. I will.

Mr. J. M. C. SMITH. In explaining the right to peaceably ask another person to work or to refrain from working you use the language "at or near a person's residence or home."

Mr. WEBB. I beg the gentleman's pardon. Not residence or home, but at any place, in a lawful manner.

Mr. J. M. C. SMITH. I would like to know if that would not allow a person to go into a man's residence for the purpose of persuading a workingman—peacefully, of course—to work or not to work?

Mr. WEBB. I think if he goes peacefully, if permitted to go in by the owner of the house, he could do so. If the owner of a house shuts his door, a person could not go in. There is no objection to a man going to my home or yours if he is permitted to do so by the owner of the castle.

Mr. J. M. C. SMITH. The gentleman thinks the owner of the house could keep him out?

Mr. WEBB. Oh, of course; that is his castle. Mr. Chairman, how much time have I occupied?

The CHAIRMAN. The gentleman has occupied one hour and nine minutes.

Mr. WEBB. Mr. Chairman, sections 19, 20, 21, 22, and 23 provide for a trial by jury of indirect contempts.

Section 19 provides that any person disobeying a writ, order, or decree of a district court, or of the District of Columbia, by doing any act or thing therein forbidden to be done, if the act or thing done by him be of such character as to constitute also a criminal offense, either by statute or common law, shall be proceeded against in the following manner—section 20, that is—when it appears to the court, by the return of an officer or upon affidavit of some person or upon information filed by the district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the judge may issue a rule requiring such person to show cause, upon a certain day, why he should not be punished therefor, which rule, with a copy of the affidavit or information, shall be served upon the person charged, giving him time to prepare for and make return to the order. If his return does not sufficiently purge himself, in the opinion of the court, a trial shall be directed at a time and place fixed by the court. If the person fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer.

In all cases arising under this section such trial may be held by the court, or if accused demand same, by jury, in which latter event the court may impanel a jury from the jurors in attendance, or the judge in chambers may cause a sufficient number to be selected and summoned to attend at the time and place of trial, at which time a jury shall be selected and impaneled, as upon a trial for misdemeanor, and shall proceed as in criminal cases prosecuted by indictment. If the accused shall be found guilty, judgment shall be entered describing the punishment, either by fine or imprisonment, or both. The fine shall be paid to the United States or to the complainant or other person injured by the act constituting the contempt, but in no case shall the fine to be paid to the United States by a natural person exceed the sum of \$1,000, nor shall imprisonment exceed a term of six months.

Section 21 provides that evidence in such cases may be preserved and prescribes the method of appeal, and when a writ of error is granted execution of judgment shall be stayed and the accused admitted to bail.

Section 22 provides that nothing contained in this bill shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States.

Section 23 provides that no action for contempt shall be brought against a person after one year from the date of the act complained of, nor shall any such proceeding bar a criminal prosecution for the same act, and nothing herein shall affect pending cases at the time of the approval of this act.

Mr. Speaker, there is a general demand among lawyers and laymen throughout the United States for some check or limitation upon the power of Federal judges, who both try and punish for contempt. I believe that it is almost universally agreed that cases arising under section 19 of this act should be tried by a jury if the accused demands it. There are some who believe that a jury trial should be allowed in all indirect contempt cases.

The time may come before a great while when all indirect contempt cases will be tried by jury.

On the increasing growth of the power of the Federal courts I wish to read the following extract from an article written by Judge Henry Clay Caldwell, who was appointed Federal judge in 1864 by Abraham Lincoln, and who served as a Federal judge for 39 years:

The modern writ of injunction is used for purposes which bear no more resemblance to the uses of the ancient writ of that name than the milky way bears to the sun. Formerly it was used to conserve the property in dispute between private litigants, but in modern times it has taken the place of the police powers of the State and Nation. It enforces and restrains with equal facility the criminal laws of the State and Nation. \* \* \* In proceedings for contempt for an alleged violation of the injunction the judge is the lawmaker, the injured party, the prosecutor, the judge, and the jury. It is not surprising that, uniting in himself all these characters, he is commonly able to obtain a conviction. While the penalty which the judge can inflict by direct sentence for a violation of his code is fine or imprisonment, limited only by his discretion, capital punishment may be inflicted by indirection. All that seems to be necessary to this end is to issue a writ to the marshal or sheriff commanding him to prevent a violation of the judge's code, and then the men, with injunction nooses around their necks, may be quickly dispatched if they attempt to march across this injunction deadline. It is said the judge does not punish for a violation of the statutory offense, but only for a violation of his order prohibiting the commission of the statutory offense. Such reasoning as this is what Carlyle calls "logical cobwebbery." The web is not strong enough to deprive the smallest insect of its liberty, much less an American citizen. \* \* \* A jurisdiction that is not required to stop somewhere will stop nowhere.

Prof. Baird says fish have no maturity, but continue to grow until they die. This curious characteristic of fish is a very intensified form in the equitable octopus called injunction, for that has no maturity and never dies, and its jurisdiction grows and extends perpetually and unceasingly.

Mr. Chairman, this bill does not deprive the court of the power to punish for contempt in certain cases, but gives the accused the right to have the issue of his guilt or innocence tried by 12 men before punishment can be inflicted by the judge. It is wise to allow juries to try questions of fact, although there are some who are assaulting the jury system and declare it is a failure, but, in my opinion, it is the most perfect system ever devised by man to determine a controversy between man and man.

The Star Chamber in England tried to abolish the jury system and brought about a revolution. Our country's jurisprudence will never decline, and our country will always remain strong and great so long as the jury system is preserved inviolate and incorrupt.

It has been strenuously argued that Congress has no power to limit inferior courts in the exercise of their power to punish for contempt. The Constitution does say the judicial power of the United States shall be vested or shall rest in one Supreme Court and in such inferior courts as Congress shall from time to time establish. I take it that if you run down the decisions from 1709 to the present time you will not find a decision of any court but what says that these inferior courts are absolutely and entirely the creatures of Congress, and surely the power that can create can also limit the power of the creature. Inherent powers! There are no inherent powers in any inferior court. The only power that a district court possesses is that prescribed by Congress—the body that creates it—otherwise we could bring into being a power that would be superior to the creator.

On the question of the power of Congress to limit the courts in their punishment for indirect contempts, I wish to cite a few authorities.

The first authority I wish to cite in this connection was written in 1799 in the case of *Turner against The Bank of North America*, in Fourth Dallas. Counsel said:

It is, then, to be remarked that the judicial power is the grant of the Constitution, and Congress can no more limit than enlarge the constitutional grant.

Then Judge Ellsworth, Chief Justice at that time, interrupted this argument and said:

How far is it meant to carry this argument? Will it be affirmed that in every case to which the judicial power of the United States extends the Federal courts may exercise the jurisdiction, without the intervention of the legislature, to distribute and regulate the power?

Justice Chase said:

The notion has frequently been entertained that the Federal courts derive their judicial power immediately from the Constitution, but the political truth is that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us or to any other court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would perhaps be inexpedient, to enlarge the jurisdiction of the Federal courts to every subject in every form which the Constitution might warrant.

That was in 1799, and, gentlemen, from that good hour to this the suggestions of Chief Justice Chase and Judge Ellsworth have been followed.

Now, in *United States v. Hudson* (7 Cranch, p. 31):

Of all the courts which the United States may, under their general powers, constitute, one only—the Supreme Court—possesses jurisdiction derived immediately from the Constitution and of which the legislative power can not deprive it. All other courts created by the General Government possess no jurisdiction but what is given them by the power that creates them, and can be vested with none but what the power ceded to the General Government will authorize them to confer.

For the power which Congress possesses to create courts of inferior jurisdiction necessarily implies the power to limit the jurisdictions of those courts to particular objects; and when a court is created and its operations confined to certain specific objects, with what propriety can it assume to itself a jurisdiction much more extended, in its very nature very indefinite, applicable to a great variety of subjects, varying in every State in the Union, and with regard to which there exists no definite criterion of distribution between the district and circuit courts of the same district?

We next come to Third Howard, on page 245, *Cary* against *Curtis*, and I may say that this decision was affirmed in *Fink* against *O'Neil*, in One hundred and sixth United States.

Says the court:

Secondly, the doctrine so often ruled in this court, that the judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court) for the exercise of the judicial power and of investing them with jurisdiction, either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good. To deny this position would be to elevate the judicial over the legislative branch of the Government and to give to the former powers limited by its own discretion merely. It follows, then, that the courts created by statute must look to the statute as the warrant for their authority; certainly they can not go beyond the statute and assert an authority with which they may not be invested by it or which may be clearly denied to them.

The existence of the judicial act itself, with its several supplements, furnishes proof unanswerable on this point. The courts of the United States are all limited in their nature and constitution, and have not the powers inherent in courts existing by prescription or by the common law.

What can be stronger, gentlemen, than that decision rendered in Third Howard and reaffirmed in One hundred and sixth United States in the case of *Fink* against *O'Neil*, at page 280?

Now, here is still another authority to which I wish to call the attention of the Members of the House, found in Forty-ninth United States, or Eighth Howard—*Sheldon* against *Sill*, page 441:

Courts created by statute can have no jurisdiction but such as the statute confers.

It is absurd, it seems to me, to hold that the creator can create a thing which, after it is created, becomes bigger and more powerful than its creator. It was never so intended by the founders of the Government, and it is opposed to the genius of our institutions to suppose a thing created can become more powerful than the people who created it. Now, in this decision Judge Grier, rendering it, says:

It must be admitted that if the Constitution had ordained or established the inferior courts, and distributed to them their respective powers, they could not be restricted or divested by Congress.

Nobody undertakes to say that we can restrict or divest the power of the Supreme Court of the United States, because that court was created by the Constitution, and that is the distinction this judge draws here:

But as it has made no such distribution, one of two consequences must result—either that each inferior court created by Congress must exercise all the judicial powers not given to the Supreme Court, or that Congress, having the power to establish the courts, must define their respective jurisdictions. The first of these inferences has never been asserted, and could not be defended with any show of reason, and, if not, the latter would seem to follow as a necessary consequence, and it would seem to follow also that, having a right to prescribe, Congress may withhold from any court of its creation jurisdiction of any of the enumerated controversies. Courts created by statute can have no jurisdiction but such as the statute confers. No one of them can assert a just claim to jurisdiction exclusively conferred on another or withheld from all.

The Constitution has defined the limits of the judicial power of the United States, but has not prescribed how much of it shall be exercised by the circuit court; consequently the statute which does prescribe the limits of their jurisdiction can not be in conflict with the Constitution, unless it confers powers not enumerated therein.

Such has been the doctrine held by this court since its first establishment. To enumerate all the cases in which it has been either directly advanced or tacitly assumed would be tedious and unnecessary.

I cite still another authority, Mr. Chairman. It is in Eighteenth Wallace, page 577, and is known as the case of the sewing machine companies. It bears out the decision which I have just read. It is as follows:

Circuit courts do not derive their judicial power immediately from the Constitution, as appears with sufficient explicitness from the Constitution itself, as the first section of the third article provides that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." Consequently the jurisdiction of the circuit court in every case must depend upon some act of Congress, as it is clear that Congress, inasmuch as it possesses the power to ordain and establish all courts inferior to the Supreme Court, may also define their jurisdiction. Courts created by statute can have no jurisdiction in controversies but such as the statute confers. Congress, it may be conceded, may confer such jurisdiction upon the circuit courts as it may see fit within the scope of the judicial power of the Constitution not vested in the Supreme Court, but as such tribunals are neither created by the Constitution nor is their jurisdiction defined by that instrument, it follows that inasmuch as they are created by an act of Congress it is necessary in every attempt to define their power to look to that source as the means of accomplishing that end. Federal judicial power, beyond all doubt, has its origin in the Constitution, but the organization of the system and the distribution of the subjects of jurisdiction among such inferior courts as Congress may from time to time ordain and establish within the scope of the judicial power always have been and of right must be the work of the Congress.

Now, Mr. Chairman, in Nineteenth Wallace, *Robinson's* case, at pages 510 and 511, we have a contempt case. The syllabus says:

The act of March 2, 1831, entitled "An act declaratory of the law concerning contempts of court," provides in its first section: "That the power of the several courts of the United States to issue attachments and inflict summary punishment for contempts of court shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehavior of any officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts."

Mr. Justice Field in that case, after stating the facts, delivered the opinion of the court, as follows:

The power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings and to the enforcement of the judgments, orders, and writs of the courts, and consequently to the due administration of justice. The moment the courts of the United States were called into existence and invested with jurisdiction over any subject they became possessed of this power. But the power has been limited and defined by the act of Congress of March 2, 1831. The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and powers from the Constitution, may perhaps be a matter of doubt; but that it applies to the circuit and district courts there can be no question. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence or subsequent acts extending or limiting their jurisdiction. The act of 1831 is therefore to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in this respect to three classes of cases: First, where there has been misbehavior of a person in the presence of the courts or so near thereto as to obstruct the administration of justice; second, where there has been misbehavior of any officer of the courts in his official transactions; and, third, where there has been disobedience or resistance by any officer, party, juror, witness, or other person to any lawful writ, process, order, rule, decree, or command of the courts.

There is no inherent power suggested there, because the Supreme Court says that Congress has the right to limit the power of the courts of this country to punish for contempt to three classes of cases. Now, if Congress can reduce them to three, it can reduce them to one, and if they can reduce them to one, Congress can destroy contempt cases altogether, and if Congress destroys them altogether, why can not it say that in certain cases a jury must intervene and determine whether or not the party is guilty before the judge shall inflict punishment?

"But," says the court, "the power is limited." What power? The power to punish for contempt. By whom is it limited? Nobody but the law-making power. Justice Field says:

The act, in terms, applies to all courts. Whether it can be held to limit the authority of the Supreme Court, which derives its existence and powers from the Constitution, may perhaps be a matter of doubt.

We find in this case, Nineteenth Wallace, Eighty-sixth United States, that we can limit the power over contempt in the circuit and district courts. These courts were created by act of Congress. Their powers and duties depend upon the act calling them into existence or subsequent acts extending or limiting their jurisdiction. The act of 1831 is, therefore, to them the law specifying the cases in which summary punishment for contempts may be inflicted. It limits the power of these courts in three classes of cases.

This is a direct decision in point, gentlemen of the House, which declares that the Congress has the power to limit the punishment to three classes of cases; and if it has the power to limit the punishment to three classes of cases, we can limit that power to one class or abolish it altogether. I contend that

if Congress desires to take away from the inferior courts all power to punish for contempt it can do it.

We could abolish the circuit courts of the United States—which we have done—and the Commerce Court, the district courts, and all the courts, except the Supreme Court; and, therefore, it is absurd to argue that while we have the power to destroy we have not the power to regulate the thing we create.

I can not see how any lawyer can read these authorities from 1799 to the present and then contend that the people who create these courts through their Representatives in Congress have no right to provide that before a man shall be convicted of crime by a judge there shall be hung between him and the judge's arbitrary power a jury of 12 men—one of the most sacred institutions in all the world, and especially to the people of the United States—simply to pass upon the facts and say whether he is guilty. If the man is guilty, the judge has all the power he needs to punish, provided it does not exceed six months' imprisonment or a fine of \$1,000. [Loud applause.]

Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 15657 and other bills embraced in the order of the House, and had come to no resolution thereon.

Mr. STAFFORD. Mr. Speaker, should not the chairman of the committee make a report to the House that the committee has had under consideration the bill H. R. 15613 and had laid it aside with a favorable recommendation, and not that it had come to no decision thereon? Under the rule that would hold it in abeyance until all three of the bills were passed upon in the committee.

The SPEAKER. The House does not pass upon one bill until it gets through with all three.

Mr. STAFFORD. But the chairman has made a report that it has come to no decision.

The SPEAKER. The Chair thinks the gentleman from Tennessee is correct. If he was not, when they got through with the first bill the committee would rise and he would make a report. This is like the procedure when we are in Committee of the Whole on the Private Calendar.

#### ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 12806. An act authorizing the Secretary of War to grant the use of the Fort McHenry Military Reservation, in the State of Maryland, to the mayor and city council of Baltimore, a municipal corporation of the State of Maryland, making certain provisions in connection therewith, providing access to and from the site of the new immigration station heretofore set aside; and

H. R. 16508. An act making appropriations to supply further urgent deficiencies in appropriations for the fiscal year 1914, and for other purposes.

#### SENATE JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate joint resolution of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. J. Res. 149. Joint resolution authorizing the President to accept an invitation of the French Republic to participate in an International Congress of Musical Science and History, to be held at Paris; to the Committee on Foreign Affairs.

#### RURAL CREDITS.

Mr. THOMPSON of Oklahoma. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of rural credits.

The SPEAKER. Is there objection?

There was no objection.

Mr. DONOVAN rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. I want to say, Mr. Speaker, that I think the gentleman from Wisconsin misunderstood the situation. The motion was that the bill be laid aside with a favorable recommendation. It was passed unanimously. Of course there were no Republicans here, except a few, but they all acquiesced in the favorable result.

The SPEAKER. That question has been settled authoritatively.

Mr. STAFFORD. The gentleman from Connecticut does not know what he is talking about.

Mr. WEBB. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WEBB. Under the rule are we to have a session this evening?

The SPEAKER. Yes; the rule requires the House to take a recess until 8 o'clock, and the gentleman from Oklahoma [Mr. FERRIS] will act as Speaker pro tempore this evening.

#### RECESS.

Accordingly the House (at 5 o'clock and 24 minutes p. m.) stood in recess until 8 o'clock p. m.

#### EVENING SESSION.

The House was called to order by Mr. FERRIS, Speaker pro tempore, at 8 p. m.

#### ANTITRUST LEGISLATION.

The SPEAKER pro tempore. The House will resolve itself automatically into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and other bills under the special order.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 15657 and other bills under the special order, with Mr. HULL in the chair.

Mr. WEBB. Mr. Chairman, I will ask the gentleman from Minnesota [Mr. VOLSTEAD], who has control of the time on the other side, to use some of his time now, as we have used 1 hour and 25 minutes.

Mr. VOLSTEAD. Mr. Chairman, it is not my intention to enter into an extended discussion of this bill. I have been too busy with other matters to prepare anything like a speech, still there are some features to which I desire to call attention. When this session met it was generally understood that it would be devoted largely to trust legislation. A great many promises were made, a great many assurances were given as to what was going to be accomplished at this session. One thing that I remember which was especially emphasized was the necessity of erasing from the Sherman antitrust act the word "reasonable," said to have been inserted in it by the Supreme Court in the Standard Oil Co. decision. It was also urged that in many other respects the act needed to be strengthened.

Early in the session we commenced hearings in the Committee on the Judiciary, and somewhere along during the last of January or the first of February, four bills made their appearance as committee bills. Upon one of these there was an indorsement to the effect that another bill would be later introduced—one on holding companies. Those bills became known familiarly as the "Five Brothers."

The bill now under consideration embodies some features from all of those bills, except one—the so-called definitions bill.

That bill was designed to restore the Sherman Act to its former vigor and add some additional teeth. That bill has entirely disappeared in the shuffle. It is known that the President has been repeatedly consulted, but the Republican Members only know of these consultations through the newspapers or from some occasional remark dropped by those in the secret. In the years past the Democrats have loudly condemned this secret method of framing legislation. No one can tell just what sort of influences write bills when written in this fashion. Section 8 of this bill is the section that most directly affects the trusts. This is the one that deals with holding companies and the right of one company to acquire the capital stock of another company. The overshadowing importance of this section can not be doubted when it is remembered that nearly every trust has been formed by the purchase of the capital stock of one corporation by another corporation. If such purchases are permitted, the formation of trusts is permitted. The English common law condemns the practice of one corporation purchasing the capital stock of another corporation, upon the ground that it tends to monopoly. Our courts supported this view until different States, eager to profit by a tax on corporate franchises, removed this restriction to encourage the formation of corporations. Congress has not legalized the practice. Do we legalize it in this bill? If we do, the effect is to practically repeal the Sherman Antitrust Act.

If this section is enacted it will become a definite legislative declaration by Congress of its policy in regard to the formation of trusts, a policy that courts will necessarily apply not only to future but also to present trusts. The policy in this bill differs radically from that under present law. Under the law as it

stands, it is not necessary to show that a combination actually restrains or monopolizes trade or commerce in order to bring them within the language of the law. It is enough that the necessary effect of the combination is to give it the power to do those things. The decisive question is whether the power exists, not whether it has been exercised. In the Northern Securities Co. case, the Trans-Missouri, Joint Traffic, Pearsal, and Addyston cases, the United States Supreme Court held that it was immaterial that trade or commerce had not actually been restrained; that it made no difference, even, that rates and prices had been lowered, it being enough to bring the combination within the condemnation of the act that it had the power to restrain trade or commerce. But under the two first paragraphs of this section the existence of this power is not sufficient to make the combination illegal; it is necessary to show, in addition, that the consolidation of two competing corporations effected an elimination or substantial lessening of competition or that it has created a monopoly in any line of trade in any section or community. In paragraph 3 it is necessary to go still further; it there requires a showing that competition has been lessened by voting the stock that has been consolidated. In other words, the vice in this section is that it permits the formation of a trust and in effect declares this trust legal until it eliminates or substantially lessens competition or creates a monopoly, while under the present law the combination is declared illegal if it possesses the power to restrain commerce, whether it has that effect or not. If this section 8 had been in force when the Northern Securities Co. case was tried, the Government would have lost it, as no restraint of trade was shown in that case. There had been no substantial lessening of competition at the time when that suit was instituted that could be established. A combination can easily conduct its business so that it will be impossible to show that competition has been entirely eliminated or to show that a monopoly has been created as the word "monopoly" is construed by our courts. To prove that the consolidation has substantially lessened competition will be almost as difficult. No one can tell how the word "substantial" will be construed. As used in this section it may mean that the competition must be largely lessened. This word "substantial" is so indefinite that it affords the courts no guide. As applied to the facts in any ordinary case of conflicting testimony it will give them a license to hold that anything short of almost entire elimination of competition is legal.

To illustrate the vicious effect of the requirement that the combinations to be illegal must destroy or substantially lessen competition, let me suggest that if a corporation is formed to erect a factory to produce an article in competition with some other corporation, this section will permit the consolidation of these companies at any time before actual competition commences. Until then there can be no elimination or lessening of competition. Or if a company now engaged in business desires to enter new territory it can first purchase the capital stock of the corporation that would become its competitor; by doing so it has not lessened competition, because until it enters the new field there is no competition to lessen. To prevent and not to lessen competition a corporation may, under this section, purchase the capital stock of another corporation to prevent the latter from increasing its output of competitive goods. This need not lessen; it may even increase competition, though in effect it restrains trade as the law is now construed. The most astonishing proposition is that contained in the third paragraph of this section. The purpose of that paragraph is to permit a corporation to purchase the stock of other corporations solely for investment purposes. The only limitation upon this right is that the corporation making the purchase must not use the stock by voting or otherwise to bring about or attempt to bring about the substantial lessening of competition. It may make this purchase even though it create an absolute monopoly. How anyone with any knowledge of trust methods could propose such a provision as in aid of the Sherman Antitrust Act is difficult to understand. The Northern Securities Co. was an investment company pure and simple. It had no power to run a railroad; its only function, as it insisted on the trial, was that of an investment company. The Supreme Court was not deceived by so thin a disguise. It saw clearly what every man in his senses saw, that competition between two roads that were in fact owned by the same party—the Northern Securities Co.—would be a sham. No incentive for competition remained. Every expenditure for the purpose of taking trade from each other would be a loss to the stockholders. In this provision the same vice that I have already called attention to appears. It is not sufficient that the combination created by these investments may result in the lessening of competition.

It is necessary to show in addition that this lessening is caused by voting or other like use of the stock to bring it about.

The inevitable consequences of the combination is not enough, nor is the elimination of competition enough; there must, in addition, be proof that the stock has been used to accomplish the elimination of competition. How the Government is ever going to prove that is more than I can imagine. This provision will legalize every trust and practically wipe the Sherman law off the statute books. If any existing trust does not consider itself quite safe under the first two paragraphs of this section, it can put on the armor furnished for its use in the third paragraph and laugh at the Attorney General and all his assistants. It may be argued that the Sherman antitrust law will still remain in force and that the acts I have mentioned would be forbidden by that law. This can not be claimed with any show of reason. If this bill becomes a law, it will become a legislative construction of the Sherman Act, and to the extent that the present law is inconsistent with this section 8 that law will be modified. It is true that repeals by implication are not favored, but the rule is that an act that covers in a comprehensive way any prior law repeals such prior law. Section 8 is clearly intended to lay down fully the law in regard to stock consolidations of corporations. It would be labor lost to argue to a court that the things Congress took pains not to prohibit by express exemption in the act are prohibited by some other law covering this subject in general terms. Paragraph 4 of this section may be cited as showing that section 8 does not apply to existing trusts; but a careful reading of that paragraph will show that its object is only to exempt the trusts from compliance with this section, so far as they may have any legal rights that this section may interfere with, but it is careful not to say that section 8 shall not legalize violations of the present law. What it does say is that if any legal rights that are reserved to it by this paragraph shall be held in violation of the Sherman Antitrust Act such reservation shall not legalize this illegality.

Mr. WEBB. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. WEBB. I suppose that the gentleman has read the bill, on page 26, line 8—

That nothing in this paragraph shall make stockholding relations between corporations legal when such relations constitute violations of the antitrust laws.

Mr. VOLSTEAD. I will come to that in a moment.

Mr. WEBB. So it could not repeal the antitrust law?

Mr. VOLSTEAD. I think the gentleman will find that does not accomplish the purpose he imagines it will. I think when you come to read it carefully you will find that it is one of the most adroit things that was ever placed in any bill.

I want to call the gentleman's especial attention to the language of that section, because that is one of the things that surprised me when I came to read it. I read:

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this paragraph—

Note that it says paragraph, not section—

*Provided*, That nothing in this paragraph shall make stockholding relations between corporations legal when such relations constitute violations of the antitrust laws.

This is the whole paragraph.

In other words, this paragraph reserves to the trusts any rights which might be threatened by the passage of this act, but it says that this reservation shall not be construed to legalize a trust, but it does not say that section 8 shall not legalize the trust. It does not take these corporations out of the operation of this act at all. On the other hand it expressly recognizes that this section applies to existing trusts. This paragraph only exempts our present trusts from its operation so far as it may be to their advantage to be exempted. I do not know who is responsible for this attack upon our antitrust laws. If my construction of this section is correct, this is certainly as smooth a piece of work as can well be imagined. I want to call your especial attention to the fact that though practically every other provision in this bill has met bitter hostility in the committee, not one voice has yet been raised against this provision. Why is it? Do you believe that the men interested in the trusts, sharp and shrewd as they are, would not have objected strenuously to this provision if it does not mean just what I claim that it means? [Applause.] This means immunity, and that is why they want it; that is why they are silent. The real object of these combinations is to lessen or destroy competition. It is for that purpose that nearly every industry is to-day in the hands of some holding company, some trust. Instead of repressing this evil, trusts are to be legalized and declared to be

good trusts so long as the Government is unable to prove a thing which it will be impossible to prove, and no matter though they rob the public by high prices.

I do not believe that any set of men, whether engaged in a trust or not, should be given monopolistic powers. No one can be safely trusted with such powers. Those who drew and the courts that have enforced the Sherman Antitrust Act struck directly at this evil, at the combination, the conspiracy, the trust. They sought to destroy, not to legalize. They sought to reach the root of the evil, not its symptoms. Passing from this section, I will briefly refer to some other sections; I shall not touch on all of them, because I do not want to take up too much time. Sections 2 and 4 of the bill attempt to define offenses. These sections may have some value, though it is true that the acts condemned are offenses under existing law; but they are made offenses standing alone. When the courts have held such acts offenses it has been in connection with other matters, and it may be an advantage to have these acts made separate offenses; but at the same time there is great danger that the use of specific language to define an offense may lead our courts to the conclusion that anything of a like nature, but not covered by the language of the new act, was not intended to be covered, and as such is eliminated from the prohibitions of the Sherman Antitrust Act.

Section 3 has been discussed somewhat upon this floor. It is my impression that section 3, which is the one to compel mining companies to sell generally to any responsible party, unless there is some good reason for refusing, might very properly be applied to any corporation. I do not believe that it should be applied to small corporations, but it seems to me that when a corporation gets so large that it handles a very large portion of the commerce of the country or the commerce of a section it might very properly be asked to deal equally and fairly without discrimination as between all the people. We ask this of common carriers. Why should not the same rule apply to any concern that is monopolistic in character?

Section 5 has been commented on by the chairman, and I think his comment is fair. I think that section may add quite a little to the remedy which private parties have in securing relief where they have been oppressed by unfair methods of competition. The same may be said of section 6, but that section is open to a very serious objection.

It makes the judgments that may be entered in suits brought by the Government to dissolve a trust, evidence not only in favor of but also against a person injured by a violation of the trust laws. In these days when judgments are entered by consent of parties without a public hearing, findings may not be of such a character as to serve a private party in recovering any claim he may have for injury to him. Upon what theory of justice a person who has never had his day in court to recover for injuries that may have ruined his business may be defeated by the action of an officer he can not control, and in a suit to which he is not a party is indeed strange. If this provision becomes a law, we shall have another sort of immunity bath and we may find the culprits seeking absolution at the hands of the Attorney General instead of dealing with their victims. Upon what theory a person can be deprived of his day in court I do not understand.

It seems to me when the Attorney General brings suit on behalf of all the people against a corporation and a judgment is recovered in favor of the Government against the trust, declaring that it is violating the law, it may very properly be used against that corporation if a suit is brought by a private party, but if for any reason the Attorney General fails to obtain a judgment, perhaps because he does not prosecute properly, it does not seem to me that a private party who may have been ruined by the conduct of some offending corporation should be debarred from ever suing that corporation for redress. We have a very conspicuous illustration as to how this may operate. The Government brought and lost a suit against the Sugar Trust. Subsequently the injured party, the sugar refinery at Philadelphia, recovered, I believe, more than a million dollars.

Mr. CARLIN. Will the gentleman yield for a question?

Mr. VOLSTEAD. I will.

Mr. CARLIN. How could that statement be true when that provision applies only to decrees or judgments? If there be no decree or judgment why neither party would be bound, so that the statement that the Government would fail to prosecute would have no application. There would have to be a final determination of the court.

Mr. VOLSTEAD. I concede if no judgment was entered there would be no bar, but there may be a judgment of dismissal in the action, a judgment of no cause for action against the Government. If the judgment is entered against the Govern-

ment it bars the suit of private parties who may even have commenced their actions years ago.

Mr. GORDON. Is not the degree of proof different in a suit for criminal action brought by the Government than in a suit brought by an individual?

Mr. VOLSTEAD. Oh, yes; but that does not make any difference so far as this section is concerned. A defendant convicted in a criminal action certainly could not complain that such a judgment should be binding upon him if binding in a civil suit, because more proof would be required in the criminal than in a civil suit.

Mr. GORDON. Exactly so; but a private individual who might want to bring the suit might complain, might he not?

Mr. VOLSTEAD. That is true.

Mr. McKENZIE. Will the gentleman yield?

The CHAIRMAN. Will the gentleman yield to the gentleman from Illinois?

Mr. VOLSTEAD. I will.

Mr. McKENZIE. Your judgment is, then, that this section should be stricken out entirely?

Mr. VOLSTEAD. No; my judgment is that the provision making the judgment in such a suit a bar against a suit brought by a private person should be stricken out.

Mr. McKENZIE. Would that be a fair proposition? Should not the rule, if it is applied at all, work both ways?

Mr. VOLSTEAD. No. One has been in court, and the other has not. The private party has not been in court at all. The trust has. He can not control the action of the Attorney General. He has no right to produce any evidence to sustain a decree. The Government may not have known about his evidence, or if it knew it, may not have produced it, and it may be, as in many instances it has been, simply a compromise judgment entered to settle some difficulty between the Government and the trust. It is not fair to make that sort of a judgment a bar to a private action.

Mr. McKENZIE. Will the gentleman yield further?

Mr. VOLSTEAD. I will.

Mr. McKENZIE. If this section is left in the bill, do you not feel and believe that this decree that is mentioned in this section should be the decree of the court of last resort—the Supreme Court of the land?

Mr. VOLSTEAD. No.

Mr. McKENZIE. Should it not go that far?

Mr. VOLSTEAD. No; I can see no reason why.

Mr. McKENZIE. You think it would be good policy to leave a matter of such great importance in the hands of an inferior court?

Mr. VOLSTEAD. Yes. It looks to me like this: We have been trying to enforce the Sherman Antitrust Act for 20 years, and trusts have been growing and growing; and I do not think that we need fear that the trusts are likely to be injured. They can comply with the laws like other law-abiding persons, and they need have no fear of these decrees.

Mr. McKENZIE. If the gentleman will pardon me, I am not sympathizing with the trusts at all. That is not the point. But in legislating I believe we should be fair, even to the trusts.

Mr. VOLSTEAD. I think that is fair. The first paragraph of the seventh section is of no particular importance. The latter half, however, allows railroad companies to get together and fix rates and make all sorts of arrangements to stifle competition except in a few unimportant matters. And this may be done without asking the permission of the Interstate Commerce Commission and without even notifying the commission of the agreement.

The railroads have clamored for this right for many years, but I presume it is right that they should share in the "New Freedom" somewhat. [Laughter and applause on the Republican side.]

Section 12 is the section under which trust magnates are going to be sent to jail. It does not add a thing in the world to the present law. Guilt, so far as the law is concerned, has been personal ever since the statute was written. It does not add anything to the penalty. It does not add anything in any other respect. It is simply put in there for buncombe. People have made stump speeches all about the country, threatening to put these people in jail. Anybody who has ever followed the prosecutions had under the Sherman antitrust law knows that individuals who participate in forming any illegal combination, any illegal conspiracy, can be punished now, and a number of them have been punished, though not very severely.

The trouble has been this, not that the law has not been upon the statute book, but that there has always been strong sympathy, both on the part of the jury and on the part of the court, for the men who have been carrying on these gigantic operations. They have all felt a little as though there was some

virtue in these vast combinations, as though some of these men were a little bit too good to be put behind prison bars; and when they have been convicted the courts have shrunk from imposing the penalty which you men wrote into that law.

You have repeated it in this proposed statute. Do you think it will be any more effective now? Do you think anybody will have more respect for it now? I do not think so. When these same men appear before jurors and before courts there will be the same sympathy, there will be the same feeling, the same old plea, that these men did not know they had violated the law. They will say, "We guess we will let them go this time"; and they will be good hereafter.

Mr. FESS. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Ohio?

Mr. VOLSTEAD. I do.

Mr. FESS. I did not know that the Sherman antitrust law provided that if the corporation was found guilty of violating the law, that guilt would also be deemed to apply to the directors.

Mr. VOLSTEAD. This section does not say that or mean that. It simply says if they have been guilty of any of the acts defined in the Sherman Antitrust Act they shall be punished by a fine of \$5,000.

Mr. FESS. The offense shall also be deemed to be that of the individual director of such a corporation?

Mr. VOLSTEAD. Read a little further.

Mr. FESS. I read:

And upon the conviction of the corporation any director, officer, or agent who shall have authorized, ordered, or done any of such prohibited acts shall be deemed guilty of a misdemeanor.

Mr. VOLSTEAD. That is exactly what the present law provides for, only in slightly different language.

Mr. FESS. Does it mean that that law is simply to cover up something else?

Mr. VOLSTEAD. The fact that the corporation has been convicted does not prove that the particular individual is guilty.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield right there?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Iowa?

Mr. VOLSTEAD. I do.

Mr. GREEN of Iowa. The first part of the section is merely a catch phrase, which sounds well but has no effect whatever?

Mr. VOLSTEAD. That is true.

Mr. GREEN of Iowa. The binding part of it is in the latter part?

Mr. VOLSTEAD. Yes. There were submitted before the Committee on the Judiciary indictments for the purpose of showing how parties had been charged with the violation of the existing trust law. No one familiar with the drawing of indictments or who had any experience with prosecutions under criminal law can have any doubt that it is simply a repetition of the present statute. It is just couched in different language; that is all.

Now, let me say that while you may point with pride to this section 12 as the performance of a promise, let me remind my Democratic friends that there is very little in this trust program to carry out the promises so bravely made in the last Democratic platform.

How about holding companies? You have legalized them. In your platform you said that holding companies were "indispensable." You do not say that now.

You condemned interlocking directors. You have to some extent done that in this bill, but at the same time you have also legalized interlocking directors.

You also condemned watered stock. It is true you have a bill here for the purpose of preventing railroads from issuing watered stock, but other industrial corporations may float oceans of it. There is not a single scratch in any of these bills against the watered stock of a company like the United States Steel Corporation or any of the other larger combinations of capital.

Mr. GORDON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Ohio?

Mr. VOLSTEAD. Yes.

Mr. GORDON. Do you not recognize any difference between the public necessity for limiting the issues of stocks and bonds of railroad corporations and those of purely private corporations?

Mr. VOLSTEAD. There is some difference, but do you mean to say that it is proper to have watered stock to the extent found in the United States Steel Corporation?

Mr. GORDON. The people of the United States do not pay any dividends on the stock of private corporations. They do pay dividends on the stock of public corporations, like railroad corporations. There is the difference.

Mr. VOLSTEAD. One of the main objects in these consolidations has been to inject watered stock—

Mr. GORDON. Unquestionably.

Mr. VOLSTEAD. The very consolidations that your bill legalizes will invite it, and you will have more watered stock under this scheme as the years go by if you ever write it into law; but you will never dare to do it.

Mr. GORDON. Will the gentleman yield just a minute further?

Mr. VOLSTEAD. Yes.

Mr. GORDON. The point I sought to draw the gentleman out on was the legal relation of the railroad corporations to the public, to wit, that the railroads are entitled to a reasonable compensation for drawing the traffic of the country over public highways.

Mr. VOLSTEAD. Yes.

Mr. GORDON. Can not the gentleman see the public necessity for limiting and restricting the stock and bond issues of the railroad corporations, so as to enable the Interstate Commerce Commission to some extent to know how much money was actually invested in those corporations?

Mr. VOLSTEAD. I think I had the honor to introduce the first bill on that subject that was ever introduced into this House. It was introduced six or eight years ago. I called President Roosevelt's attention to it, and he promised to send a message to Congress asking for its passage. I think in every general message that he wrote after that time he called the attention of this House and of Congress to the need for legislation of that kind, and I am thoroughly in sympathy with the idea of preventing watered stock so far as railroad corporations are concerned, but it seems to me that some day we shall have to go further than that. It seems to me that these vast combinations that practically dominate whole industries must in some fashion be controlled; and it seems to me the financing of such institutions is one of the things we must control. An overcapitalized corporation must try to secure monopolistic powers or it can not compete with a competitor that is honestly financed. One of the reasons why this country is almost on the verge of ruin to-day is the fact that we have got all sorts of watered stock, all sorts of inflated capitalization which makes the conditions unsound and unsafe. If it were not for the effort to pay dividends upon such stocks there would not be the necessity for the high cost of living of which we are complaining.

Mr. BAILEY. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Pennsylvania?

Mr. VOLSTEAD. Certainly.

Mr. BAILEY. Upon what basis was this \$700,000,000 of watered stock issued by the Steel Corporation?

Mr. VOLSTEAD. I have not been advised.

Mr. BAILEY. Was it not issued upon the tremendous power which was conferred upon that corporation by the United States Congress, when it gave that corporation an immense margin of profit through the protective tariff? Was it not a capitalization of the protective tariff law, which gave it that enormous opportunity for profit?

Mr. VOLSTEAD. I am not going to discuss the tariff at this time.

Mr. BAILEY. And is not the repeal of that protective tariff law the thing which has put down the common stock of the United States Steel Corporation?

Mr. VOLSTEAD. I do not know whether the tariff has affected this company or not, but I do know that a company trying to maintain any credit and pay dividends on the ocean of water that was put into capitalization is in sore straits.

Mr. BAILEY. It certainly brought it up to an artificial level.

Mr. VOLSTEAD. Gentlemen, I have spoken a good deal longer than I intended to speak. I wanted to call attention to these things because I think them important.

Mr. FERRIS. Will the gentleman yield?

Mr. VOLSTEAD. I will.

Mr. FERRIS. I want to ask the gentleman if it is his opinion that this bill emasculates the Sherman antitrust law?

Mr. VOLSTEAD. I think it practically destroys it.

Mr. FERRIS. It is not sufficiently drastic; is that the gentleman's position?

Mr. VOLSTEAD. Yes. I think most of the provisions in the bill are of very doubtful value. There are some which I approve, but section 8, the one that deals with trusts, certainly does legalize trusts.

Mr. FERRIS. How does the gentleman stand on the labor amendment soon to be offered?

Mr. VOLSTEAD. I have not discussed the labor question, but I will tell the gentleman my position. I do not believe in exempting any class. I believe that before the law we ought all be equal. I do not think that we should exempt any special class. I may explain my views more fully on that at another time.

Allow me to thank the committee for its kind attention. [Applause.]

Mr. WEBB. Will the gentleman from Minnesota occupy some more of his time?

Mr. VOLSTEAD. I will yield 30 minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Chairman, those accepting responsibility as Representatives should not treat lightly the duties which go with such responsibility. We can not afford, when acting the rôle of statesmanship, whether with great or small capacity, to proceed impulsively or rashly or hastily. True statesmanship consists in a large percentage of deliberation and a very small percentage of action.

What, then, shall be said of a measure reaching into the very vitals of every industrial and commercial enterprise in the Nation, from the railroad systems, whose lines extend thousands of miles, and the banks, whose affairs are the direct interest of all, down through all gradations to the smallest—a measure introduced in January, discussed in committee superficially and spasmodically, and reported the first week in May?

The pending bill not only regulates the managements of carriers and the directorates of 350,000 corporations, including banks, but touches the private affairs and contractual relations of every citizen. It prescribes new and untried methods of carrying on private business, breaking up and displacing those which, having stood the test of experience, are normal and acceptable to all. The sum total of the country's business transacted in conformity to existing rules and methods is incalculable. The billions representing bank clearances do not tell half the story.

Who are those who, after a few weeks consideration, with constant interruptions due to other important legislation coming up, have recommended to this body a voluminous code of business morality? Are our colleagues on the Judiciary Committee mechanical engineers or experts in finance, manufacturing, and transportation? Can they exhibit credentials or diplomas which justify our confidence in their familiarity with all science and all human affairs? Are they better fitted to build and equip railways, steamships, engines, and cars, or to operate them by the application of steam and electricity, than those now so employed? Should we now, after such a brief schooling, take their word for it that it is a crime if a man owns stock in two corporations or is a director in both, or as a producer sells to A at a certain profit, while selling to B at a greater or less profit, or sells a customer an article at a dollar and offers it to him at 90 cents on condition that he be given the customer's continuous orders? Even if I thought I could ever be convinced of the wisdom and justice of such changes by statute I would require better authority and more competent witnesses than the estimable gentlemen who have joined in a favorable report on this bill, for however sound their judgment in legal matters, however successful they have been as politicians, I can not believe they have been able in four short months to master the intricacies of the 10,000 branches of business affected by this legislation, or to give convincing sociological reasons for severing the close relations that men have built on mutual confidence in dealings running through the years, and decades of activity. We are no more justified in accepting their judgments, so contrary to common knowledge and experience, than the railroads of the country would be if they employed at a princely salary some brilliant theorist and doctrinaire who asserted that he could show them where and how to save a million dollars a day.

Before entering upon the separate provisions of the bill I wish to call attention to the short period of hopeful feeling and renewal of confidence in the business world between the presidential deliverance on the 19th of January and the publication of the so-called "tentative bills" early in February—or, rather, to the deliverance itself—in order to emphasize the wide divergence between promise and performance.

The President said in his message that—

Constructive legislation is always the embodiment of convincing experience and of the mature public opinion which finally springs out of that experience.

He further said:

What we are purposing to do, therefore, is happily not to hamper or interfere with business, as enlightened business men prefer to do it, or in any sense to put it under the ban. \* \* \* And fortunately

no measures of sweeping or novel change are necessary; \* \* \* what we have to do can be done in a new spirit, in thoughtful moderation, and without revolution of any untoward kind.

If it could be shown that there was a widespread or even any considerable demand for this legislation, still it would well become us, in view of its drastic character, to pause and consider until senseless clamor raised by the few mad and restless innovators who have prompted it had reduced their temperatures.

But, in sober truth, it has been concocted and sprung so unexpectedly, so suddenly, and demand or reason for it is so utterly wanting, that the action of the majority can only be accounted for upon the theory of supposed political advantage. If that theory be correct, then, however mistaken the Democratic opinion upon the political effect, no one will doubt the desperate nature of the emergency. The new tariff act has failed to reduce the cost of living, as was promised; the new currency act has not accelerated the wheels of industry, as was expected; hence this sudden tactical shift. The conciliatory message has been whispered into limbo in select presidential conclaves, and the dogs of war have been unleashed to tear and cripple the fabric of business and industrial life in its essence and structure to satisfy the clamor of the malcontents within the party. I again ask, Where and by whom and by how many is such legislation desired? It is a question that can not be answered, or if at all not satisfactorily, by naming shallow-pated doctrinaires and partisan opportunists.

Now, if I were seeking merely political advantage, my true interest would be to remain silent instead of giving such free expressions of my views as I propose giving. But the measure is so drastic, so immature, so untimely, so utterly ruinous, that, in order to save the country from the confusion and destruction it would produce, I am perfectly willing, if within my power, to persuade Democrats to refrain from supporting it in their own party interests, even if from no higher considerations. And although the practice of keeping party pledges has been recently obsoleted, I will first make a few comparisons between certain planks in the platform on which the President and Democratic Members of this Congress were elected and some of the provisions of this bill.

The most important declaration on the subject was in these words:

We regret that the Sherman antitrust law has received a judicial construction depriving it of much of its efficacy, and we favor the enactment of legislation which will restore to the statute the strength of which it has been deprived by such interpretation.

It will be noted that the uncertainty created by the decisions of the Supreme Court in the Standard Oil and Tobacco Co. cases was the inspiration for that declaration. Can anyone point out in this bill a line or word intended or calculated to change the interpretation of the law there given by the court? The challenge may stand throughout this debate, and no one will attempt to meet it. The eloquent gentleman from Kentucky [Mr. STANLEY] introduced a bill at the opening of this session which had the specific effect to change the law to mean what it meant, or was supposed to mean, prior to these decisions. He was accorded a hearing before the committee on his bill, but his bill went, along with his brilliant appeal, into the committee's capacious wastebasket. Nor is there even the vestige of anything in the bill embodying his idea, or any response whatever to the platform declaration and party pledge. I do not, of course, complain of this. I merely call attention to the fact.

I have already predicted confusion and uncertainty to result from this measure, if passed, and will presently discuss specific provisions in detail. But lest it be claimed that the various provisions of the bill have a combined effect to remove the uncertainty created by the court decisions, I call attention to the fact that the majority does not make any such claim, and no one will dare attempt, candidly and in good faith, to argue that any provision touches the subject matter of the court decisions or the party pledge based thereon.

I will now dispose of one or two items, as to which I make no complaint that the bill fulfills party pledges or interferes with the country's business; matters wherein the bill is merely a pretentious show of meeting platform pledges without substantial performance. The platform was profuse and explicit in its pledges to labor. It said:

#### RIGHTS OF LABOR.

We repeat our declarations of the platform of 1908, as follows:

"Questions of judicial practice have arisen, especially in connection with industrial disputes. We believe that the parties to all judicial proceedings should be treated with rigid impartiality, and that injunctions should not be issued in any case in which an injunction would not issue if no industrial dispute were involved."

I call attention to the fact that in no message or official deliverance from the White House is there a line or syllable

with reference to that pledge. I state emphatically, and propose making it so clear that even the blindest and most credulous partisan can not refuse to admit it, that the bill is an absolute failure, not only to accomplish what labor expected to be and claimed should be done, but accomplishes nothing whatever for labor's benefit.

First, as to what labor expected and had a right to expect. It will be noted that every word in the 1912 platform is a reiteration between quotation marks of the 1908 platform. In the 1908 campaign Mr. Gompers, president of the American Federation of Labor, was exceedingly active in support of Bryan, and positively asserted in his speeches, as doubtless did his associates, that the platform was an indorsement and approval of the Pearre bill. That bill had received the unanimous support of Democratic members of the Judiciary Committee of the House during two years prior to the 1908 convention. Mr. Gompers also claimed that his interpretation of the platform was in accord with the views of Mr. Bryan and other Democratic leaders. About 10 days before the election in 1908 President Roosevelt, in a public statement, called attention to Mr. Gompers's statements, and challenged Mr. Bryan to admit or deny them. But Mr. Bryan was silent until Gompers had answered reiterating his prior assertions. Then Bryan stated that Roosevelt had been already answered. That the 1912 platform pledged approval of the Pearre bill is shown by the fact that after this construction of the 1908 platform by both Gompers and Bryan its language was followed and quoted, word for word, in 1912. Moreover, Gompers strenuously urged that interpretation before the Judiciary Committee, both prior to and since the presidential election of 1912, and neither Bryan nor any member of the committee, nor President Wilson, nor any other Democratic officer, has thus far differed with him.

Now, compare the provisions of the Pearre bill and the sections of this bill treating of injunctions in labor cases. I am not, of course, understood as approving the Pearre bill; in fact, I still have great confidence in the courts. But here are the provisions of the Pearre bill:

A bill to regulate the issuance of restraining orders and injunctions and procedure thereon, and to limit the meaning of "conspiracy" in certain cases.

Be it enacted, etc., That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and an employee, or between employers and employees, or between employees, or between persons employed to labor and persons seeking employment as laborers, or between persons seeking employment as laborers, or involving or growing out of a dispute concerning terms or conditions of employment unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law; and such property or property right must be particularly described in the application, which must be in writing and sworn to by the applicant or by his, her, or its agent or attorney. And for the purposes of this act no right to continue the relation of employer and employee or to assume or create such relation with any particular person or persons, or at all, or to carry on business of any particular kind or at any particular place, or at all, shall be construed, held, considered, or treated as property or as constituting a property right.

Sec. 2. That in cases arising in the courts of the United States or coming before said courts, or before any judge or the judges thereof, no agreement between two or more persons concerning the terms or conditions of employment of labor, or the assumption or creation or termination of any relation between employer and employee, or concerning any act or thing to be done or not to be done with reference to or involving or growing out of a labor dispute shall constitute a conspiracy or other criminal offense or be punished or prosecuted as such unless the act or thing agreed to be done or not to be done would be unlawful if done by a single individual, nor shall the entering into or the carrying out of any such agreement be restrained or enjoined unless such act or thing agreed to be done would be subject to be restrained or enjoined under the provisions, limitations, and definition contained in the first section of this act.

Sec. 3. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

These provisions fully justified Mr. Gompers and his followers in their support of the Democratic ticket, according to their faith in the party pledges, if the subject of injunction in labor disputes was as important as claimed by them.

It will be observed that the Pearre bill entirely eliminates "the right to carry on business at any particular place or at all" from the category of property entitled to protection by injunction. You seek in vain for anything of that kind in this bill. The Pearre bill also had the effect to exempt labor from legal liability and from the injunctive process under the Sherman Antitrust Act in boycott cases. If the words of the second section, above quoted, do not mean that, then they mean nothing.

The claim in the committee's majority report that the so-called exemption clause for unions exempts anybody from any legal danger or interference is the rankest nonsense. It embodies a legal proposition never disputed by any court nor by any respectable authority.

And with respect to the so-called anti-injunction provisions of the bill, I start confidently with the assertion that if labor

fully knows its rights and dares assert them, in keeping with its oft-expressed views of judicial power, it will be as much aroused in opposition to this bill as are all the intelligent business men of the Nation.

While having no fear that the courts would abuse the extensive new and arbitrary powers conferred by this bill, I am not deterred by that fact from calling attention to them. I am convinced, however, that our judges have not asked for and do not desire thrust upon them these arbitrary powers. I now quote from section 15 a sentence containing the gist of the whole section, which I deem it necessary to notice:

No temporary restraining order shall be granted without notice to the opposite party, unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to property or a property right of the applicant before notice could be served or hearing had thereon.

If a statute said, "You shall not go into the street without your clothes on except to save some one from injury," I take it that such a statute would not deprive one of the privilege of wearing clothes on the street when not engaged in rescuing persons from injury. Surely no one would be so foolish as to insist that it did. Here the courts are forbidden to restrain parties without notice, except in the instance specified. Would it be possible to more clearly authorize them to issue restraining orders in any other cases they may see fit, and under all other circumstances which to them may appear to justify it, provided notice be given? I am no lawyer, and yet I would be ashamed to confess my inability to deduce from this language unlimited new authority to the courts to issue restraining orders at will upon notice.

The only limitation imposed is that, where no property or property right is involved, the ceremony of giving a notice, which may be one day's notice, must be observed. An examination of subsequent parts of the bill convinces me that this far-reaching effect of the language employed was not merely accidental, but had a definite purpose, which we discover when we read section 18.

Being a mere layman, I hesitated giving my own construction to section 18 until I had submitted it to legal Members of the House and found their views to accord with my own. The section is arranged in two paragraphs, possibly with a view to making it a little more difficult to discover how narrow and restricted the ground from which the courts are excluded. I find I can not make my points entirely clear without quoting the whole section. It reads as follows:

Sec. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

It will be observed that the section is inoperative until a case has been brought, and the case must be between persons holding certain relations; and not only so, it must be pending while the relation exists. It is important to note that property or a property right must be involved. Hence it would never apply in the rare event of an action between employees or between persons employed and those seeking employment. It is therefore limited to cases between employer and employees. But that relation terminates the moment a strike or lockout occurs. Would it ever apply in cases of strikes or boycotts? Do employees eat their cake and keep it, too? In other words, do they strike and yet keep right along at work? And is there an instance to be found of employees boycotting an employer while serving him? Such a thing may be possible but is unprecedented. Again, do persons employed and those seeking employment boycott or declare strikes against each other? Of course such a thing is inconceivable.

Now, when you have eliminated strike and boycott cases, I would like some one to point out any jurisdiction remaining for the operation of the prohibition worthy of mention. And to see that all in the second paragraph is brought within the nar-

row confines of the first, I call attention to the fact that it says, in the first line of the second paragraph, "and no such restraining order or injunction," and so forth. That obviously refers to those restricted with respect to relations and subject of litigation in the preceding paragraph. Any persuasion or withholding of patronage or assembling, however "peaceful" and "lawful," must, in order to come within the exemption, involve parties in a case standing in these relations, and the action must be one brought to protect property or property rights from irreparable injury. Suppose it be an action brought for a restraining order not involving property, but upon notice, as clearly it may be, under the provision of section 15, read in connection with the first paragraph of section 18. It is absurd to suppose the author of the bill and the committee intended that the courts should be bereft of jurisdiction in cases of violence, disorder, and trespass, in all that larger and more important class of cases where the relation of employer and employee never existed or has been severed by a strike. I do not accuse it of having done anything so foolish. And that is just where it misleads such of labor's representatives as believe that to have been done. If they believe the law is objectionable as it stands to-day, they will soon find that this act is much more amenable to the same grounds of objection.

Whether labor is entitled to have the jurisdiction of the courts regulated and limited is a question not before us, because if it were conceded that labor is entitled to legislation of that character, no bill containing it is before us, and the issue is not raised by this bill.

That some one representing labor is not satisfied with the bill in its present shape appears from the fact that marked copies have been laid upon the desks of Members by the American Federation of Labor. The suggested amendment to section 18 is a mere addition of these words, "nor shall any of the acts enumerated in this paragraph be considered unlawful in any court of the United States." It was stated in the New York World of May 2 that labor's representatives had been told at the White House that if that addition were made it would be clearly unconstitutional. Though the President may have missed the mark on other occasions, he is undoubtedly correct about this. I do not claim to know much constitutional law, but I know enough to know that, as Congress would here be attempting to direct the judicial department in the construction of statutes, which is a judicial and not a legislative function, it would be contrary to both the form and spirit of the Constitution.

I can not help marveling at the present subserviency of our friend Gompers and his associates. I have not forgotten his and their splendid show of courage and consistency at the first session of the Sixty-second Congress; how they took their stand for the Bacon-Bartlett bill, containing substantially the provisions of the Pearre bill, and even more; got it reported from the Labor Committee, whose chairman, W. B. Wilson, now officiates and luxuriates at the head of the Department of Labor; how the chairman of the Judiciary Committee found himself unable to control Mr. Wilson, but did succeed in controlling the gentleman from Texas [Mr. HENRY] so far as to prevent the report of a special rule for the consideration of the bill. Now, I shall be very much surprised if the American Federation of Labor and its friends on this floor so far stultify themselves and disappoint their followers as to accept so miserable a makeshift, so utterly ruinous a measure as that embodied in sections 15 and 18.

I would like to give some attention to the contempt provisions, which are, if possible, more objectionable than the other, but find so much of my time exhausted that I must devote the balance to the other provisions of the bill.

Section 2 of the pending bill reads as follows:

Sec. 2. That any person engaged in commerce who shall either directly or indirectly discriminate in price between different purchasers of commodities in the same or different sections or communities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, with the purpose or intent to thereby destroy or wrongfully injure the business of a competitor of either such purchaser or seller, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of transportation: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

The best that can be said for it is that from the moment of its passage and approval it would become and remain a dead letter and a mere encumbrance of the statute books. But it would at least cause doubts, fears, and uncertainty in the busi-

ness mind. In a broad sense every sale that is made injures and is intended to injure a competitor, because the mere fact of a sale by A deprives B and other dealers of an opportunity to make a sale. But the prohibition is surrounded by so many loopholes for escape, provisos, and exceptions, practically covering some condition of every sale, that the jargon means very little. Its presence in the bill can only be accounted for upon the theory that persons are still living who were injured by evil practices of the Standard Oil Co. at a former period, and these have been sufficiently influential to have inserted in a bill affecting nearly all business this useless, confusing provision. The answer under any charge of a violation to the question of why the sale was made would be that the sale was made in order to make the sale. Or the accused party could say he got the business while in the act of getting it, or that he did the business in due course of doing business. He could answer in either of these meaningless ways and so put an end to any case brought under that section.

I pass now to section 4. In a general sense it forbids exclusive contracts.

If it were possible, I would like to ascertain just how much those who inspired or dictated that provision know about the established and normal course of the world's business of to-day. It is a fact well known to business men that the exclusive contracts here condemned and penalized characterize about three-fourths of the productive and mercantile business worth doing at all, and the balance would be done by the same methods if it were practicable.

Upon reading the hearings before the committee an impression is obtained that the only persons in the country who can possibly be injured by what the committee condemns as an exclusive contract is the small or crossroads merchant. Even if I admitted, which I do not, that his prosperity would be promoted by the elimination of exclusive contracts, still it would be just as absurd and unwise to do so as to burn a barn or sink a ship in order to get rid of rats.

Let me illustrate how the exclusive contract is operated. Mr. A, we will suppose, manufactures a special grade of men's underwear, from certain kinds of wool and cotton, taken in given proportions and combinations. Of course, there may be a dozen or hundred others making other brands which are better or just as good at the same price or slightly inferior at a much lower price. Now, at the beginning of the year A does not know whether his trade will amount to \$50,000 or \$100,000, so he goes to Smith & Co., wholesalers or jobbers, who are vast distributors, and arranges with them that they will take his entire output or surplus, after he has supplied his retail customers, off his hands at the end of each three months at a certain fixed price, provided he does not produce an annual excess of \$100,000. They also bind themselves mutually that Smith & Co. shall not buy that class and grade of goods from anyone else, except to meet a demand in excess of A's supply, and that A shall not offer his surplus to anyone else.

Now, I am prepared to point out the advantages of that arrangement to the immediate parties. A knows for a year ahead just how much raw material to obtain, how many operatives to employ, how much the aggregate cost and the cost per unit, how much his profit on each unit of production, and, in the aggregate, just how much money to borrow and when to promise repayment. His employees are secure in their jobs for the entire year or during good behavior. Smith & Co. can calculate their profits per unit in advance, and can make similar exclusive contracts with retailers throughout the country and at a lower price than if all were left to chance, fancy, and the interference of competitors. And the same certainty, safety, and security is created in their establishment in the matter of employees, organization, expenses, and so forth, as in A's. All of which, as anyone can see, also makes for economy and lower prices.

How does it affect other producers and dealers? Using alphabetical representation, we have, say, makers of underwear down to J who are able to make these exclusive contracts, and they make them with as many different general distributors. They are in competition with each other up to the point of making the contracts and continuing in local competition, and their respective brands continue to compete with each other everywhere.

But below J are K, L, M, and so forth, in the same line of production, competing with all above and among themselves, but unable to arrange exclusive contracts. And there can be no doubt of ample competition between the distributors handling the various brands.

I now take up the case of the crossroads or village storekeeper, who is about the only party thought by the committee

to be worthy of consideration. His opportunities in the city's marts are indeed restricted; but that is the least of his disadvantages. His customers usually buy on credit, so that he is unable to turn over his capital more than once or twice a year. He has long seasons of depression and short seasons of excessive activity. But he always enjoys at least two options. He may enter into the exclusive contract, so limiting his commitment as to remain on the safe side, and then supply deficiencies from K, L, M, and so forth, or he may reject the exclusive contract and do all his business with the latter. If he and his customers must pay a little more than the denizens of the city or large town, that is only one of the inconveniences of rural life. In truth, however, the rural dweller enjoys to a large extent all the benefits of a world-wide competition.

I would like to portray some of the exclusive advantages of residence remote from the throngs, activities, and distractions of city life, but lack of time forbids. Instead of deploring the lot of such dwellers, I have always been inclined to envy them their normal, simple lives; their undisturbed sanity, serenity, and security.

The country merchant suffers more from the competition of mail-order houses than from the causes assigned by the committee. But what are you going to do about that? Will you take away from his customers their postal facilities? That would be just as nonsensical as to disintegrate for their benefit the delicate structure of the country's business, founded on years and decades of varied and shifting experience, thereby restoring waste, deceit, cheating, higher prices, bankruptcies, and other evils of unrestrained and unregulated competition. And from these evils by far the greater sufferers are residents in the country.

The section also strikes at leases, denying the manufacturers of special machines and patented articles the privilege of leasing and selling them on restrictive conditions. I will endeavor to illustrate with a great business institution against which no prejudice appears in the report. The two cases referred to by the committee appear to have been aggravated cases. But even there not the slightest injury to consumers or users was shown or even asserted. They were instances of disputes between rivals in business. Let us take for illustration a business in which a large number of men doing considerable business are interested. A great plant at West Orange, N. J., manufactures and sells or leases thousands of storage batteries used in automobiles and autotricks. The convenience and economy resulting to individuals from using these and dispensing with horses and wagons it would be difficult to estimate, to say nothing of the diminished wear and tear of vehicles and streets and interlocked wheels. Storage batteries require supervision, cleaning, and more or less scientific care. It would be a great loss both to the manufacturer and user to make outright sales and allow them to go beyond the control of the former. So, necessarily, in most cases that company uses the leasing form of agreement, carrying with it a guaranty for a number of years, with the cost of all services to keep in perfect condition covered in the leasing price. But it would be impracticable to use the batteries without containers; and the expense of keeping in condition would be greatly enhanced if the batteries were used, as after a fashion they could be, with containers made by others than those who scientifically construct them for that company and nicely adjust them to the batteries. So when a battery is leased the lessee is required to purchase a container made by the company and must bind himself not to use any made by anyone else. The container is sold at actual cost and at a price no higher than that of others in the market, considering its superior excellence. Now, who will have the hardihood to question the right of that company to do business in that form which in the end makes for economy and profit to both parties? And that is but one of thousands of such illustrations that could be given.

But if this bill should pass with that fourth section retained in it, that company would hereafter have to make outright sales of the batteries, in which case they would soon get out of condition and be peddled about as secondhand articles or go into the junk heap, to the discredit and ruin of its business, because they could no longer couple their leases with conditions as to exclusive use of their containers, without which they must sell rather than lease the batteries.

The same condition is found in many branches of the automobile business. Handy mechanical contrivances which are not, as it is said, fool proof are leased and guaranteed. But the owners of such patents find that there is no profit in their manufacture and sale unless they can not only retain supervision through leases but also sell the lessees other parts that go with the patented part and place a prohibition upon the use of these other parts made by others.

It was shown before the Judiciary Committee at its hearings in 1912 that the business in this country which would be af-

fected by such legislation amounts to the enormous annual sum of \$25,000,000,000. A loss of even 1 per cent of that vast sum inflicted "by act of Congress" would be \$250,000,000. How would that loss be compensated? Who would be the gainers? Suppose such great establishments as those manufacturing storage batteries and the great automobile factories were broken up and put out of business, who would profit by it? It would be found unprofitable for their successors, even if any would be found possessed of sufficient capital and brains to do the business in any other way and survive. In such institutions you must have cooperation and coordination of many departments and machines, and if only one company in the country has had the brains, enterprise, and foresight to assemble them into effective working relations, then that company will have a monopoly. The question is not at all whether a monopoly is desirable. If that were the question, no one would be readier with a negative answer than I. But the question is whether it is not better to endure a few monopolies, especially when it is not shown that their charges for service are unreasonable, than make a disastrous attempt to put them out of business at the behest of disgruntled agitators and wreckers.

I have already noticed the first paragraph of section 7. I will now call attention to the second paragraph of the same section, which reads as follows:

Nothing contained in the antitrust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but all such matters shall continue to be subject to such jurisdiction of the commission, and all such agreements shall be entered and kept of record by the carriers, parties thereto, and shall at all times be open to inspection by the commission: *Provided*, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic, or existing laws against joint agreements by common carriers to maintain rates.

Need I emphasize the far-reaching effect of what I have just read?

Heretofore when such legislation was offered it did not extend to operating and accounting officers, nor did it authorize, as does this provision, the formation of permanent associations with memberships composed of the officers of rival railroad companies. It will be noted that this would enable the railroads to completely forestall all the activities and functions of the Interstate Commerce Commission. It would cover not only rates, but every form of service to the public and fiscal affairs. Skillfully the draftsman has left with the commission supervision not of the agreements, mind you, but of the matters forming the subject matters of the agreements. But care is taken not to confer on the commission any control over the terms of such agreements, nor of practices under them, those being here legalized.

[The time of Mr. MADDEN having expired, he was yielded an additional 15 minutes.]

Mr. MADDEN. Such an enactment would thwart every effort of the commission and render its continued existence not worth while. If that were all, the public would be but slightly worse off than with the present slack-twisted pretense of rate regulation. But the prohibition of the antitrust act, the only barrier between the people and tyrannical, unrestrained monopolies of transportation, would be removed.

Many here will remember the persistent but heretofore unsuccessful efforts to have Congress exempt traffic agreements from the antitrust act. Here we have it in a more dangerous form than ever before presented. I trust that in this House, where on my motion, nearly four years ago, a much less dangerous form of the same exemption was stricken out of the amendatory act of 1910 by an overwhelming majority, it is only necessary to call attention to it. If I had thought there was the slightest probability of this Congress passing any such provision, I would have devoted most of the time allotted me to this clause of section 7. But surely the debates of four years ago, running through days and weeks, and the unanswerable reasons then urged against such legislation, have not been forgotten or lost their force.

Without intending to question the good faith of the committee, unless the facts constitute a reflection on it, I call attention to the bill as given to the public on Saturday, May 2. That bill contained no provision on the subject. Nor did the press of the country or the public have any hint that the bill would contain any such provision, until the committee made its report on May 6.

I was humbly born and I know what it is to toil; and I have always taken pride in being just on an equal plane of privilege with my fellow man, neither above nor below him, having no other feeling than scorn and contempt for any who would be above the law, while others are within it. I know of no more distinctive or important, nor any safer, American doctrine than

equality before the law. If a statute is not to stand against all, let it be repealed; and if it is not to be enforced against all, let the officers of the law declare an intention to refuse its enforcement in any and every case.

I can not give time to a full discussion of section 8, containing, among others, several important provisions pertaining to railroad finance, including stock and bond deals. All of it would appear to be entirely far-fetched and out of place in a bill dealing with the antitrust laws. Within much cunning phraseology are embraced in it all the vices of the Townsend-Elkins bill of the Sixty-first Congress, a bill which was finally defeated—at least, as to all these provisions. Here again it bobs up serenely, occupying more than two pages of this bill, without discussion before the committee, without notice to or knowledge of anyone except those in the sacred inner circles of the committee room.

Notwithstanding the fact that the ownership by public-service corporations of the stocks of other public-service corporations was always denied when the issue was made before the courts, and notwithstanding that Congress has heretofore steadfastly refused to sanction it, the successive heads of the Department of Justice have winked at and condoned it and given effect to such acquisitions in actions under the antitrust act. I see in the provisions of section 8 an attempt to consummate in legislation the derelictions and evil practices of the Attorneys General. It is here attempted in the deceptive form of prohibitions with provisos and limitations. "Hereafter you shall not steal a sheep; provided, however, that nothing herein shall be construed to prevent your stealing a lamb." We are expected to close our minds to the fact that in a short time the lamb will become a sheep.

I feel so confident, with respect to the disposal by the House of section 8, that I will also refrain from discussing that section at length. But lest the brevity of my comment upon it mislead some one and make an impression that the closing paragraph of section 7 and all of section 8 are of comparatively slight importance, I appeal to every Member to give them careful and serious attention. Certain leading newspapers have been of late teeming with charges that the railroads have captured all the works at Washington under this administration. I make no such charge, but state the obvious truth that their power must be great, indeed, not only here in Congress, but also with the Chief Executive, if they are able to "put over" on the people any such legislation as is here proposed.

A vast conspiracy to promote railroad interests above all others in the conduct of this administration, intrigue, and the artificial creation of public opinion have been freely charged in some of the newspapers and elsewhere. Much evidence intended to establish the truth of these charges has become a matter of record in a coordinate body. In order to complete the record, I call attention to one or two additional facts: Double dealing on the part of the attorney chosen by the Interstate Commerce Commission, whose majority were appointed by President Wilson, was definitely and circumstantially charged last week by an attorney representing large associations of shippers and no less than seven sovereign States. An Associated Press news item appeared at the time reading as follows:

THORNE ASSAILS BRANDEIS—SAYS HIS OPINION ON RATE ADVANCE WAS NOT SUPPORTED BY FACTS.

WASHINGTON, May 7.

The Interstate Commerce Commission had before it to-day a supplementary brief filed by Clifford Thorne, representing the western railroad commissions before that body in the advanced-rate case, in which he bitterly arraigns Louis D. Brandeis, special counsel for the commission, who, in his closing argument in the case last Friday, stated that "on the whole, the net income, the net operating revenues, of the carriers in official classification territory are smaller than is consistent with their assured prosperity and the welfare of the community."

Mr. Thorne asserts that Mr. Brandeis commenced his argument before the commission "by conceding the position of the carriers." On behalf of those whom he represents Mr. Thorne says that he "repudiates in unqualified terms" the concession made by Mr. Brandeis in his closing argument. In so far as Mr. Brandeis's opinion is not supported by substantial reasons the commission should not give any weight to it.

Mr. Thorne then refers to the "unpardoned" attack of Mr. Brandeis on the surplus he [Mr. Thorne] had allowed.

"The surplus to which Mr. Brandeis applied the epithet 'niggardly,'" he says, "was precisely the surplus adopted, after careful and deliberate consideration, by the unanimous action of the commission in the former advanced-rate cases. Mr. Brandeis attempts to brand that surplus as 'niggardly' without giving the slightest argument, reason, or fact in support of his claim. Some of the companies are earning more than 20 per cent after all other charges are paid. Not a word appears throughout the entire brief or in oral argument in favor of reducing their surplus earnings."

Mr. Thorne adds that the commission can not hold the revenues of the carriers affected inadequate unless it reverses the principles established in its former opinions.

I am merely availing myself of this opportunity to call the matter to the attention of the House. When so serious a charge is made by responsible authority, where so much is involved, so well calculated, if believed, to discredit that important ex-

ecutive branch, it is the duty of the legislative department, whose will it is the duty of the commission to faithfully interpret, to learn whether the charge be founded in fact or unfounded.

Section 8 and sections following it are of such considerable length that I shall not read them into the Record.

And I shall only discuss one other section, and that briefly. Section 9, filling four pages of the bill, contains provisions in detail concerning directorates in private corporations and the qualifications of directors. The principal reason assigned by the committee for embarking Congress upon this unexplored sea of legislation reads as follows:

As the President has well said in his message, the adoption of the provisions of this section will bring new men, new energies, new spirit of initiative, and new blood into the management of our business enterprises. It will open the field of industrial development and origination to scores of men who have been obliged to serve when their abilities entitled them to direct. It will immensely hearten the young men coming on and will greatly enrich the business activities of the whole country.

In the days of Jackson the slogan of the party was, "To the victors belong the spoils." At a later period, a cardinal political theory was that there should be frequent rotations in public office. But never until the "New Freedom" was handed down to us did any one suggest that the Government should extend its powers to compelling rotation in places of private trust and confidence.

If the proposed regulation of directorates does not belong to the same category of political clap-trap as do other parts of the bill, at any rate in so far as it is not already covered by the Sherman Antitrust Act, when faithfully enforced, it is utterly abortive, because beyond Federal control. I need not elaborate this proposition, since others will be able to do so more clearly than I could, but it seems to me almost too obvious to require elucidation. Where the laws of a State have prescribed the qualifications for directors and defined the voting rights of stockholders in corporations of their own creation, what right has the Federal Government to interfere? But enormous wrong can be done and irreparable injury inflicted by an unconstitutional enactment before its invalidity can be established through a tedious course of litigation.

Probably a quarter million corporations, transacting the larger percentage of the country's business, would be affected by such legislation in their most vital parts—that is to say, at their heads. The rage for innovation and disruption is not satiated by tearing down and mutilating beyond all hope of repair the country's business fabric, but, giving free rein to the mania for capricious readjustment, the whole structure and system of corporate management is to be arbitrarily shifted. It is to be taken out of the hands of those who have been tried and found efficient and trustworthy; those who have invested their fortunes in the business and grown up with it. Those who were the choice of the stockholders are to be displaced and the business placed in new hands, entrusted to those who know nothing of corporate management, and are untested as to character and capacity. Nor is this new deal in directorates and business control limited to manufacturing and trading companies. Even banks of all kinds, including savings banks and trust companies, holding in trust the savings of the poor, are to be reorganized, from the ground up, and their funds entrusted to new hands, not by choice of stockholders but "by act of Congress."

It would be impossible to portray the full and ultimate effects of the program of legislation laid and to be laid before us to constitute the Democratic trust—or antitrust—program. To compare it to the effects, local and external, of the uprisings, revolutions, and counter-revolutions going on in Mexico during the past three years would be to unduly magnify the latter, and to draw comparisons between Villa and Carranza and Democratic leaders would be too intensely personal. But notwithstanding the respectable characters of those now in charge of the country's affairs, I warn them to pause before committing wrongs that can never be remedied, before they destroy the little of business prosperity which has survived their work thus far, and to forbear to break up the solid foundations upon which all prosperity may hereafter rest; to pause, to stay their ravages, to give time for investigation, and a kindlier reception than they have heretofore given to the voice of reason and justice. [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield to the Progressives 1 hour and 40 minutes.

Mr. KELLY of Pennsylvania. Mr. Chairman, I procured that time for the gentleman from New York [Mr. CHANDLER], a member of the Progressive Party, and I desire to be potified at the end of 10 minutes.

Mr. Chairman, the gentleman from Illinois [Mr. MADDEN] has just stated that the demand for antitrust legislation at this time

comes from disgruntled agitators. He completely mistakes the temper and the will of the American people. The trusts and monopolies of this country are themselves responsible for the demand for remedial action, and their disregard of justice and every fundamental principle of this Republic has made the solution indispensable. Enterprises with great capital have deliberately sought not only industrial domination but political supremacy as well. They have entered the realm of government with insolent bearing and have attempted to name officials from the highest to the lowest.

Organized money, rioting ruthlessly in savage impulses, has forced this question upon us. We must decide whether wealth is to rule or manhood, whether this Nation is to be one of equal rights to all or special privileges to a few, whether honor and ability is to weigh in the selection of officials or cringing submission to corporate capital.

The conscience of the American people demands that action be taken, and any delay now will be a betrayal of their will. Great combinations of capital for many years have flaunted their power in the face of the citizenship, they have forced their corrupt way into politics and government, they have dictated the making of laws or scorned the laws they did not like, they have prevented the free and just administration of law. In doing this they have become a menace to free institutions, and must be dealt with in patriotic spirit, without fear or favor.

It is a common practice for standpatters to decry every forward step by denunciation of agitators. It would be well to pay some little attention to the fawning followers of crooked big business in the press, on the platform, and in public office. They sell themselves for price and place, and it would be well if they were dissected and their tresson examined, while men are cataloguing the enemies of the Nation.

Mr. Chairman, I am in complete accord with the purpose and aim of this legislation, but I fear that its terms are such that if enacted into law it will only add more jests to the long list which has marked the antitrust legislation of America in the past. Trusts have been ordered dissolved in the past, and the only change effected was one in the methods of bookkeeping. It is time for straightforward action and an honest effort to protect the people from the powers that prey upon them.

#### GROWTH OF TRUST DOMINATION.

For 35 years combinations of capital have sought to form monopolies and profit from the community through the private taxing power which goes with the ability to control prices. In 1879 the Standard Alliance, composed of oil refiners, led the way, through a pooling system, and in a short time controlled 95 per cent of the refining business of the country. The Western Exporters' Association, made up of whisky distillers, followed, and it soon was in absolute control of the business. Others followed in the same path, and this pooling system flourished for a time.

But it did not give the complete control desired. It did not concern itself with the management of individual plants, but simply apportioned out the pro rata share of production. Each member of the pool could withdraw without notice, and thus the agreement had no stability. In their anxiety for quick and large profits the producers broke the market by their very greediness. The Whisky Trust and the Wire-Nail Trust Association went so far as to raise prices 200 per cent in the midst of falling prices. Jealousy caused trouble also, and the Lackawanna Iron & Steel Co. once broke the steel-rail pool because it was allowed only 17 per cent of the production.

Such defects in the control of prices stirred the producers to find other schemes to secure their aim, that of throttling the public and forcing the highest possible prices for products.

The next plan was the trust agreement, through which trustees were assigned the majority stock in constituent refineries. They controlled the boards of directors and collected all dividends on stock and distributed them to the holders of trust certificates. It was a better plan than the pool, for the pool was an outlaw in the courts, while in the trust agreement the trustees had the law on their side and could enforce their contracts.

The injustices which followed such control of prices, however, stirred lawmaking bodies to action. In 1890 many State legislatures passed antitrust laws, and in the same year the Sherman antitrust law was enacted for the purpose of dealing with combinations doing an interstate business.

So, another plan was necessary, and legal sharps were set to work to discover some juggling trick which would enable great combinations to wring millions from helpless consumers. While they sought for this ideal plan, the producers, having tasted the sweets of despotic control, carried on their nefarious plans through a system known as "community of interest." By the knowledge gained through close association, officials of different

companies were able to act together and to prevent competition, even without any formal agreement.

This plan was still weak, for disagreements and misunderstandings meant a return to competition at any time, and that was what the different companies were striving to prevent.

Then came the discovery of the ideal scheme—the "holding corporation." It provided for a corporation to own the stock of competing companies, and it was proved in a short time to be a method in which to legally violate both law and justice. It excelled other plans, because it was not necessary to purchase the companies outright. Buying up a majority of the stock of the companies served every purpose. It escaped the troubles of the trust agreement, which was declared illegal because it was a conspiracy of several individuals, and this plan meant having one person, in the form of a corporation, control all the individual companies.

The Sugar Trust was the first to put this plan into operation, but others followed thick and fast. In 1897 there were 63 "holding companies" in existence, and in 1898-99 there were formed 183 such companies with a capitalization of \$4,000,000,000, representing one-twentieth of the entire wealth of the country and twice the amount of money in circulation.

From that time trusts have flourished until to-day a trust controls almost every commodity of daily life. This has been done in spite of all efforts to prevent restraint of trade. Suits have been entered against these vast combinations, but in most instances they have failed, and the victory won in the others was but a shadow victory. The decisions of the Supreme Court have involved legal somersaults and twistings and turnings, but the old issue still remains. It is to-day a muddle of 24 years' stirring, and the time for clearing is certainly here.

In clearing that muddle straightforward measures are necessary. It is not necessary to specifically describe every unfair trade practice, but it is necessary that some tribunal have the power to deal with every unfair trade practice which leads to monopoly. This measure mentions a few—and only a few—of these practices; and, even if they could be thus rooted out, others are sure to take their place, to remedy which other legislation will be needed.

Such an interstate trade commission as that proposed in the Progressive bill before this body would prevent confusion, delay, and injustice. It would prevent the evils mentioned in this measure, price discriminations, "tying" contracts, and so forth, and would be empowered to deal with every evasion as it might arise. Time will prove that only through a tribunal with proper powers can these unfair practices be prevented.

#### EXEMPTION OF LABOR UNIONS.

Section 7 of this measure, with the change necessary to clearly prevent application of antitrust laws to fraternal, labor, and other voluntary organizations, is a great step in advance. The section reads:

That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers, agricultural, or horticultural organizations, orders, or associations instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof.

This section, properly amended, will help to write the gospel of humanity into law. It is a recognition of the fundamental difference between human labor and the products of labor. Legislation dealing with trusts which control the products of labor can not be justly applied to the association of workers for their own betterment and improvement. One deals with materials, the other with men; one with mines, the other with miners; one with machines, the other with machinists; one with farms, the other with farmers; one with buildings, the other with builders; one with factories, the other with factory workers; one with tools, the other with toolers; one with property, the other with persons. You can not classify them together, for they are essentially different.

The free workers of America own themselves and their labor power. They may sell their labor power to others or they may withhold it. They may act together for the protection of their rights and interests, and it is a sham and a fraud to say that they may organize without the power to use means necessary to make organization a vital force in demanding and securing justice.

I stand for the right of labor to organize for its own advancement and to work for that purpose without being outlawed for it. This measure is right in purpose, and I hope it will be amended so that there shall be no shadow of doubt as to the right of the workers of this country to organize and exert themselves in legitimate activities without the danger of being prosecuted under antitrust laws. It is not a case of class legislation nor a demand for special privileges. It is simply a demand

of humanity for freedom from restrictions and shackles that deny common justice.

The Sherman antitrust law has been made a potent force against organized labor, even while it proved unable to restrain marauding combinations of capital. In 1892 it was brought into action when some union men in New Orleans went on strike. Teamsters and workmen in many lines were concerned. Judge Billings, of the United States district court, declared that the strike was in restraint of interstate commerce and granted an injunction. The United States court of appeals agreed in his decision.

Two years later the point was again reached in the Pullman strike in Chicago. Injunctions against the strikers were granted by the courts under the Sherman Act and a number of the strikers were jailed for several months for disobeying the injunction.

Several years later another labor phase came into evidence. In Danbury, Conn., a small firm of hat manufacturers operated an open shop and was boycotted by labor unions. The court decided that the unions were acting as a combination in restraint of trade under the meaning of the Sherman antitrust law.

Many other instances might be cited to show that the antitrust laws have been used as a club over voluntary organizations, which were never intended to come within their scope. When the Sherman antitrust law was passed in the Senate it was clearly and unequivocally stated that its provisions would not cover such organizations. But history shows that the victories won under it have been the suits against labor organizations, while great trusts and monopolies have grown and flourished. It is to remedy such a flagrant injustice that this provision is included in this measure; and after it is amended to clearly accomplish its purpose of exemption, it should have the support of every Member of this House.

#### INJUNCTIONS AND JURY TRIAL.

The provisions in this measure for the regulation of injunctions and the procedure in contempt cases, while somewhat beyond the scope of antitrust legislation, are reforms long demanded by the American people. The expression "government by injunction" has become current because in almost every labor controversy in recent years the courts have been used by powerful corporations in the carrying out of their plans to subjugate employees and to prevent the exercise of lawful rights. The abuse of the right of injunction in the past 10 years has been sufficient to arouse the public, and this legislation is demanded by every right-thinking American citizen to-day.

Similar to that demand is the determination that the constitutional provision that "no person shall be deprived of life, liberty, or property without due process of law and the judgment of his peers" shall be maintained. Freemen since the days of King John and Runnymede have demanded jury trial. It is a fundamental American doctrine. If jurors are competent to judge the law and the fact in criminal cases, why are they not competent in matters of injunction and contempt? The judge is not more competent to judge of a litigant's rights when his life is not at stake than when it is, and the individual or corporation that is afraid to submit his case to a jury for trial has no right to dictate laws for the administration of justice.

#### THE INVISIBLE GOVERNMENT.

Mr. Chairman, the invisible government which has controlled the visible Government in this Nation for many years has been unscrupulous big business. We have been tracing some of its insidious, slimy ways in our lobby investigations of recent date. We have seen its arts of trickery and debauchery, its manipulations and its conspiracies. The time for forbearance is over and the time to strike has come. If this Nation is to be a government of the people by crooked big business, the doom of our free institutions is assured. I believe that firm and decisive action now will be for the best interest not only of the Nation at large but of business itself. Brazen defiance of the spirit of laws made to protect the public and cunning jugglery to evade them is in the final analysis the worst thing possible for business. Business protects itself against fires by vast expenditures for fire insurance, but there are other dangers worse than fires. One is the danger that the masses of the people will forget their patient endurance of injustice and long-suffering submission to wrong on the part of exploiting combinations and start a conflagration against which fire insurance will offer no protection.

Good business depends on the permanence of law and order. This Nation can not stand much more of fraud and plunder, savage impulses left unchecked, a controlled press, and misrepresentation of the truth and continue to have good business.

The real defenders of property to-day are not those who attempt to forestall every attempt at reform by denunciation

and who put the blame for unrest not on those who pummel the people but on those who call attention to the black and blue spots. The real defenders of property are not the stand-patters, who cry out against any change and shout, "let well enough alone," when the very worst thing that could happen would be to have things remain exactly as they are, no better and no worse.

No; the real defenders of property are the upholders of the rights of humanity, the Progressives, who believe that "new occasions teach new duties. Time makes ancient good uncouth. They must upward still and onward who would keep abreast of truth."

To-day, as always, there are men like Demetrius of Ephesus, who, when he saw that the preaching of Paul the apostle was harming his business of making silver idols, gathered his fellows together and raised a great hue and cry, shouting "Great is Diana of the Ephesians." Their fervid devotion to Diana was as false as that of monopolists and their defenders to-day who shout "Great is property," when the public conscience demands that justice be done.

The greatest security to property comes from the security of human rights, and the sooner business realizes that fact the better it will be for all concerned.

#### THE PERIL OF COMPROMISE.

Mr. Chairman, the American people have a right to expect a better measure than this weak, halting, halfway attempt at remedy of intolerable conditions. It does not go to the root of the evils which have brought concentration of wealth and diffusion of poverty. I sincerely hope that it may be amended so that its expressed purposes may be accomplished, for there is a deadly peril in compromise with the forces that prey. There is no golden mean between right and wrong, between courage and cowardice, between honor and dishonor, between patriotism and treason, between the people's rights and monopoly. I believe in industrial and commercial peace, but not the peace that is purchased at the expense of justice and human liberty. There can be no peace in America except with the destruction of the sordid social wrongs and the putrid political methods which have attended the growth of the great combinations and monopolies of this country. This is an irrepressible conflict and there is no middle ground. The Nation looks to its Congress to strike a fair and square blow at hoary wrongs, and thus better the living conditions of the people of America. Lawmakers can concern themselves with nothing greater than that, and it is the duty as well as privilege of every representative of the people to make that his chief end and aim in his decision upon every measure before this Congress. [Applause.]

Mr. WEBB. Mr. Chairman, I yield 20 minutes to the gentleman from Massachusetts [Mr. MITCHELL], a member of the committee.

Mr. MITCHELL. Mr. Chairman, I think the Members of the House have been very much impressed particularly with the difference of opinion that appears to exist on the other side of the House. The senior member upon the Judiciary Committee on the Republican side of the House [Mr. VOLSTEAD] substantially said that this bill did not do anything. After he concluded his remarks, the distinguished and able gentleman from Illinois [Mr. MADDEN] stated that the bill was too drastic. Evidently it did something, and now we have just heard from the able representative of the Progressive Party, Mr. KELLY, that the bill does not do anything, and the only section of the bill that he has referred to in his eloquent address he proceeds to praise and to commend. I think, Mr. Chairman, that the condition made so manifest this evening on that side of the House is a condition that existed among our friends for the past 10 or 15 years, since these organizations have sought to come into existence and since they have been developed. One wing of the party wanted to regulate and to legislate. Another wing of the party, where these interests were so firmly entrenched, did not want to pass any legislation, so we have arrived at this situation, that there has been vouchsafed to the majority party of this House the responsibility of responding, I believe, to the wishes and to the hopes and the aspirations of 100,000,000 people and writing into the law this antitrust legislation. [Applause on the Democratic side.] Mr. Chairman, I do not think that the senior Representative of the Republican Party upon our committee did credit or justice to himself when he stated that this bill was conceived and perfected in secret session.

I have been a member of other legislative bodies, Mr. Chairman, in the days gone by, and I have never served upon any committee that sought, as this committee has sought, the light and the aid of counsel and the assistance of business men from every section of the country. Why, Mr. Chairman, we coun-

seled with the minority Members upon the committee in the perfection of this bill. Why, Mr. Chairman, we prepared three tentative drafts of this bill, and I believe that every member of the committee, Republicans as well as Progressives, offered suggestions in connection with this legislation. All of the meetings, as far as my knowledge goes, were open, and I do not believe that the gentleman intended to say that the majority members of this committee did not give opportunity to every member of the committee to participate in this splendid legislation.

Mr. SUTHERLAND. May I interrupt the gentleman in order to ask him a question?

Mr. MITCHELL. Yes.

Mr. SUTHERLAND. Will you kindly tell us what steps you took to get before your committee representatives of the coal mining interests in the perfection of section No. 3?

Mr. MITCHELL. Well, the committee gave announcement through the press of the country that they wanted the aid and the counsel and the assistance of business men in every line of business and in every line of effort. And I recall distinctly that the chairman of the committee, in the presence of the newspaper men, stated that there had been some misunderstanding on the part of some men who did not believe they had an opportunity to come in; and he said, "I want you to make this as plain as you possibly can, that we invite counsel and cooperation of business men in every line of effort." So it was spread broadcast, and, as a matter of fact, if the gentleman will examine the hearings which the committee held, you will find that very many business men in every line of effort appeared before that committee and submitted their testimony.

Mr. SUTHERLAND. Did, in fact, anybody who was familiar with the coal-mining business, with the production and sale of coal, appear before your committee and give information and advice with reference to the formulation of the ideas set forth in section No. 3?

Mr. MITCHELL. I think there was a brief filed. I do not recall any gentleman coming in and talking on that specific subject, but I think this committee had in mind the interests of these coal miners, and I am very sure that the members of the committee had in mind the interests of the coal consumers in this great country of ours.

Mr. FITZHENRY. Just to refresh the recollection of my colleague, I will say that Mr. Beck, of Chicago, representing the coal dealers and handlers, was there and testified and filed a brief.

Mr. MITCHELL. I am quite sure that is true, Mr. Chairman.

For the third time in his administration the President of the United States, on the 20th of January, 1914, addressed the Congress. On this important occasion he pointed out the need and the necessity of enacting into law legislation "regarding the very intricate matter of trusts and monopolies."

Mr. SWITZER. I would like to ask the gentleman why these men were the ones selected as "goats" in this bill, and nothing was said about the lumber dealers? Why did you select somebody who was not in any of your districts?

Mr. MITCHELL. Mr. Chairman, I do not believe that the members of this committee selected the mine owners or anybody else to be "goats." I do believe, Mr. Chairman, that this committee in writing this new principle—and it is a new principle of law in this country—are carrying out and carrying into the law what millions of citizens believe should have been the law years ago. We believe that God placed these minerals in the bowels of the earth, and when these men obtain title to the lands we do not believe that the minerals in the earth should go with the lands; and we believe that these minerals were placed there in order that they might serve humanity in various ways. [Applause.]

Mr. SWITZER. I would like to ask if God had not anything to do with the growing of timber?

Mr. MITCHELL. I do not think my Christian friend requires an answer from me upon that question. [Applause.]

The President said, among other things:

What we are purposing to do, therefore, is, happily, not to hamper or interfere with business as enlightened business men prefer to do it, or in any sense to put it under the ban. The antagonism between business and government is over. We are now about to give expression to the best business judgment of America, to what we know to be the business conscience and honor of the land. The Government and business men are ready to meet each other halfway in a common effort to square business methods with both public opinion and the law. The best-informed men of the business world condemn the methods and processes and consequences of monopoly as we condemn them, and the instinctive judgment of the vast majority of business men everywhere goes with them. We shall now be their spokesmen. That is the strength of our position and the sure prophecy of what will ensue when our reasonable work is done.

In pursuance of that notable message and in accord with its high purpose and courageous spirit the members of the Judiciary Committee have presented to the House for its consideration and determination this program of antitrust legislation. We confidently believe that its enactment into law will bring a new tone, a new spirit, a new independence, an initiative and a freedom to business that it has never known before. We believe that it will open the door of opportunity to those who have endeavored to enter the field of business free and untrammelled and that its manifold blessings will be more and more evident to all of our citizens as soon as business readjustments have taken place under its operation.

The committee has ever kept in mind and has endeavored to write into the law those things that will not hurt or hinder honestly conducted business, and it has kept before it the standard of justice, of equality, of opportunity, to all the people of the country.

This bill in its entirety is responsive to the best and most enlightened standards existing among men. The Sherman law, so called, passed in 1890, and was enacted to meet a condition that was becoming intolerable, indefensible, and oppressive. This bill supplements that act without changing its essential features. The speedy enactment of this bill into law will mark a new era in the business development of this Nation. Preceded in this administration by the tariff and currency legislation, it is the culminating feature of the program promised by our party platform, indorsed by the people of the Nation, urged by the President of the United States, and now to be enacted into law by the Congress of the United States. When the historian comes to write the story of the Wilson administration and this period of our national development, I think it will be referred to as the great constructive period of our history. We are, I believe, happily emerging from an era in which the standard of business morality has not been a credit to the country; from an era of criticism which laid bare the unfair and oppressive practices of business, but had in it only the germ of construction which is now finding its full fruition in this pending legislation.

No more earnest effort has ever been made by any body of men in any assemblage anywhere to readjust business enterprises, to develop and equalize opportunity, than by those who have been following the guidance of President Wilson in the tariff, currency, and antitrust legislation. [Applause.]

The all-important thing is to proceed sanely, fairly, and justly, in order that our people in this great land may share in the bounteous blessings that the Almighty has poured out with lavish hand in unstinted measure. The day of the man or the corporation or group of individuals who are a law unto themselves, who trample upon the laws of municipality, State, and Nation, who sweep aside every principle of equity and justice and fair dealing in their striving for unholy wealth, influence, and power by the enjoyment of some special privilege is, I believe, passing.

Their greatness and their power has neither awed nor influenced your committee, but, rather, has impressed it with the splendid opportunity which was afforded to legislate for that great unnumbered body of our citizens who are looking with their faces uplifted to this Congress to do justice to them and to give to them and their children the free and untrammelled right of doing business without bending the suppliant knee to any petty tyrant who heads some great industrial enterprise that wants the entire field for himself and all the citizens for his victims. [Applause.]

The policy of this legislation, the aim, the hopes, and the aspirations of the members of your committee are to build up, to construct, to develop, and to enlarge opportunity and to place business upon a footing so sound, so stable, so enduring, that countless millions of people will for years to come look back from the midst of their prosperity and their happiness to this great constructive piece of legislation in the trinity of measures passed by this administration.

Let us see what this antitrust measure seeks to accomplish.

#### DEFINITION OF COMMERCE.

The bill, in the first place, seeks to broaden the meaning of the word "commerce," as used in the Sherman Act of July 2, 1890, so as to make it include trade and commerce between any insular possessions or other places under the jurisdiction of the United States.

#### PREVENTION OF UNFAIR DISCRIMINATION.

One of the chief provisions of the bill, and one which should command the support and win the commendation of every Member of the House, is the provision of the bill seeking to prevent unfair discrimination. One of the greatest evils in business at the present time is this unfair trade practice. Certain great corporations, and even some of the lesser ones, have stifled and choked out competition by selling their products at a

lower price than their competitors in certain communities than in all other places where they have no competition. Invariably, when in any particular community they have vanquished their little competitor and put him out of business, they raise the price and rule the market with undisputed sway. This bill forbids such discrimination when it is made with purpose or intent to destroy or wrongfully injure the business of a competitor, either of such dealer or seller. The bill seeks only to prevent the unfair practice. It does not prevent discrimination in prices of commodities on account of differences in grade, quality, and quantity of the commodity sold, or on account of due allowance for the difference in the cost of transportation.

The chief offenders in this direction have been the Standard Oil Co. and the American Tobacco Co. Any fair-minded man can readily see that where in the community a corporation seeks to kill off competition by lowering the price of the commodity even below the cost of production or manufacture in many instances, this loss must be made up by charging more than the fair market price in other communities where there is no competition, but a free field to charge all that the consumer can possibly stand.

This evil practice has been one most widespread and one that has wrought great havoc with competitors and with the public. Different States of the Union, some 19 in number, have tried to cope with this evil, but their efforts have been weak and ineffectual. This is so because the method that proved disastrous and sent the prices soaring in the other sections of the same State to recoup the loss in a specific locality was carried out on the same plan, but on a larger scale. These gigantic organizations doing business in the 48 States of the Union were able, in States that prevented discrimination in different localities in the same State, to put their prices so uniformly low that they swept all competition from the State. Then, in order to recoup their losses in the State, they used the other States in the Union to make up their profits where they had no competition.

In the State which I have the honor to represent in part this evil practice was recognized and our legislature in 1912 passed an act, chapter 651, which I shall incorporate in my speech with some Massachusetts court decisions and illustrative cases on the evils of contracts which seek to restrain trade. I had urged and voted years ago for legislation of this character while a member of the Massachusetts House and Senate, and it is a great privilege to now be a member of an American Congress that will put through this splendid provision of law abolishing unfair discriminations. [Applause.]

Who can refuse to support a proposition of this character that has bound up in it the absolute breaking up of a great evil in business, the continuance of which will cost the American people millions of dollars and the ending of which will bring to business free and unrestrained competition and to the public an open market and reduced prices? This feature of the bill is one of the most praiseworthy and commendable in it. [Applause.]

#### DECISIONS AND ILLUSTRATIVE CASES ON THE EVILS OF CONTRACT IN RESTRAINT OF TRADE.

[Massachusetts Law, chap. 651, acts 1912.]

Any person, firm, association, or corporation, foreign or domestic, doing business in the Commonwealth and engaged in the production, manufacture, or distribution of any commodity in general use, that shall maliciously, or for the purpose of destroying the business of a competitor and of creating a monopoly in any locality, discriminate between different sections, communities, towns, or cities of this Commonwealth or between purchasers by selling such commodity at a lower rate for such purpose in one section, community, town, or city than is charged for such commodity by the vendor in another section, community, town, or city in the Commonwealth, after making due allowance for the difference, if any, in the grade or quality and in the cost of transportation, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared unlawful. (L. 1912, c. 651, sec. 1.)

It shall be unlawful for any person, firm, association, or corporation to combine with any other person, firm, association, or corporation for the purpose of destroying the trade or business of any person, firm, association, or corporation engaged in selling goods or commodities and of creating a monopoly within this Commonwealth, and any such combination is hereby prohibited and declared unlawful. (Id., sec. 2.)

Any person, firm, association, or corporation found guilty of violating any provision of this act, if an individual, shall be punished by a fine of not less than \$500 or more than \$5,000, or by imprisonment for not less than one month or more than one year, or by both such fine and imprisonment; and if the offender is a corporation, then by a fine as aforesaid. (Id., sec. 3.)

Whoever, in his individual capacity, or acting in behalf of any firm, association, or corporation, for the purpose of evading any provision of this act, shall appoint agents, secure or hold the control of corporate stock, or by agreement with any other person, firm, association, or corporation cause any of the commodities mentioned in section 1 to be sold for the purpose of such evasion or attempt to evade, shall be punished by imprisonment in the State prison for not less than six months or not more than five years, if an individual; and if any of the acts specified in this section are done by a corporation, then the directors, stockholders, or agents authorizing such evasion or discrimination shall each be held guilty thereof and shall be punished in the manner provided in this section for individuals. (Id., sec. 4.)

All contracts or agreements made in violation of any provision of this act shall be void. (Id., sec. 5.)

It shall be the duty of the district attorneys, in their districts, and of the attorney general to enforce the provisions of this act by appropriate actions in courts of competent jurisdiction, but nothing herein shall limit the right of any court to issue warrants and make commitments to await the action of the grand jury under this act in the case of crimes under the common law, and such power is hereby given to the courts of the Commonwealth. (Id., sec. 6.)

If complaint shall be made to the secretary of the Commonwealth that any person, firm, association, or corporation authorized to do business in this Commonwealth is guilty of any violation of this act, it shall be the duty of the secretary of the Commonwealth to refer the matter to the attorney general, who shall, if the facts justify it in his judgment, institute proceedings in the courts against such persons, firm, association, or corporation. (Id., sec. 7.)

If any corporation, foreign or domestic, authorized to do business in this Commonwealth is found guilty of any violation of this act, such finding shall cause a forfeiture of all the privileges and rights conferred upon the corporation by general or special law of this Commonwealth and shall bar its right to do business in this Commonwealth. (Id., sec. 8.)

If any corporation, after having been found guilty of any violation of this act, shall continue or attempt to do business in this Commonwealth, it shall be the duty of the attorney general, by a proper action in the name of the Commonwealth, to oust such corporation from all business of every kind and character in this Commonwealth. (Id., sec. 9.)

Nothing in this act shall be construed as repealing any other act, or part of an act, except such acts or parts of acts, if any there be, as are inconsistent herewith. (Id., sec. 10.)

[Chap. 709.]

An act to enlarge the powers and duties of the attorney general.

SECTION 1. It shall be the duty of the attorney general, and he is hereby authorized, to take cognizance of all violations of law or of orders of courts, tribunals, or commissions affecting the general welfare of the people, including combinations, agreements, and unlawful practices in restraint of trade or for the suppression of competition, or for the undue enhancement of the price of articles or commodities in common use, and to institute or cause to be instituted such criminal or civil proceedings before the appropriate State and Federal courts, tribunals, and commissions as the attorney general may deem to be for the interest of the public, and to investigate all matters in which he has reason to believe that there has been such violation. To carry out the purposes of this act he may appoint such assistant or assistants as he may deem necessary to act for him under his direction, and, with the approval of the governor and council, he shall fix their compensation. In all criminal proceedings instituted under this act the attorney general may require district attorneys to assist him and to act for him in their respective districts, and in all matters so referred to them the district attorneys shall be under the jurisdiction and direction of the attorney general.

SEC. 2. To carry out the provisions of this act the attorney general, with the consent of the governor and council, may expend a sum not exceeding \$5,000 from the treasury of the Commonwealth.

SEC. 3. This act shall take effect upon its passage.

Approved, May 28, 1913.

#### COURT DECISIONS.

Gloucester Isinglass & Glue Co. v. Russia Cement Co. (154 Mass., 92).

Opinion of the justices on the law of 1912 (211 Mass., 620).

United Shoe Machinery Co. v. La Chapelle (212 Mass., 467).

#### ILLUSTRATIVE CASES.

THE EVILS OF CONTRACTS IN RESTRAINT OF TRADE (MASSACHUSETTS, 1837).

The unreasonableness of contracts in restraint of trade and business is very apparent from several obvious considerations:

(1) Such contracts injure the parties making them, because they diminish their means of procuring livelihoods and a competency for their families. They tempt improvident persons, for the sake of present gain, to deprive themselves of the power to make future acquisitions, and they expose such persons to imposition and oppression.

(2) They tend to deprive the public of the services of men in the employments and capacities in which they may be most useful to the community as well as themselves.

(3) They discourage industry and enterprise and diminish the products of ingenuity and skill.

(4) They prevent competition and enhance prices.

(5) They expose the public to all the evils of monopoly; and this especially is applicable to wealthy companies and large corporations who have the means, unless restrained by law, to exclude rivalry, monopolize business, and engross the market. Against evils like these wise laws protect individuals and the public by declaring all such contracts void. (Alger v. Thacker, 19 Pick., Mass., 51.)

AN AGREEMENT NOT TO MANUFACTURE FIRE ALARMS (MASSACHUSETTS, 1893).

An inventor and manufacturer of fire-alarm apparatus sold his machinery, stock, business, and patents to another person and agreed not to engage in such business and not to enter into competition with the purchaser, either directly or indirectly, for a period of 10 years. The court held the agreement good as regards the letters patent and the improvements which the inventor agreed to convey; but it was void in so far as it purported to bind the inventor not to manufacture or sell fire alarms under other patents or under no patents. (Gamewell Fire Alarm Tel. Co. v. Crane, 160 Mass., 50.)

AGREEMENT OF BED-QUILT MANUFACTURER NOT TO SELL UNLIMITED AS TO SPACE (MASSACHUSETTS, 1888).

A manufacturer of bed quilts and comfortables conveyed to defendant his entire business and agreed not to engage in such business for five years. The court held that this was clearly illegal and void as being in restraint of trade, because not limited as to space. (Bishop v. Palmer, 146 Mass., 469.)

CONTRACTS IN RESTRAINT OF TRADE AT COMMON LAW—AGREEMENT NOT TO RUN A STAGE ON A CERTAIN ROAD UNDER PENALTY (MASSACHUSETTS, 1811).

A man ran a stage on the road between Boston and Providence. A rival contemplated setting up a stage on the same road. The man who was running the stage sold his stagecoach and horse to his rival and entered into a bond not to run the stage on such road under a certain penalty. The court held the bond void, and said:

"If it does not appear whether the contract was or was not made on good consideration, so that the contract may be either good or bad,

it is the prima facie presumption of law that the contract is bad, because it is to the prejudice of trade and honest industry, because the mischief to one party is apparent, and the benefit only presumptive, and because the apparent mischief is not merely private but also public. Therefore all contracts barely in restraint of trade where no consideration is shown are bad. (*Pierce v. Fuller*, 8 Mass., 222.)

THE RIGHT OF THE INDIVIDUAL TO THE DECREE OF THE GOVERNMENT SUIT.

A remarkable situation prevailed when the Government won its suits against the Standard Oil Co. and the Tobacco Trust. In these cases the Supreme Court of the United States found unanimously, without a dissenting voice, that acts had been committed which were not only illegal but immoral. These combinations had been effected, in large part, by the crushing out of rivals. At the end of these very long court proceedings a decree was finally entered, declaring that there should be a segregation. The lamentable fact, then, became patent that those who had been crushed and driven out of business, "the heroes," as one witness put it, "who had made it possible for the Government successfully to conduct its proceedings to a final decree," were left without a remedy, and no way could be found that would give them redress for the wrongs which they had suffered.

The situation was, indeed, intolerable and a travesty upon justice. Small wonder that men cried out in their hopelessness that there was no justice in the land for the poor. It was found that none of those who were injured could, under existing law, recover for the injuries that had been sustained by the illegal acts of these combinations. They could, of course, institute entirely new proceedings, but they could not in any way benefit from the decree which had been entered. The further fact was presented that as these proceedings had covered a long period of time, even if the parties were alive and could proceed against the offending corporations, such proceedings would be barred by the statute of limitations.

These great proceedings signally failed, as far as those who had previously been injured were concerned. There was no way that most of them could recover damages for the injuries sustained. President Wilson in his message specifically referred to this situation when he said:

I hope that we shall agree in giving private individuals who claim to have been injured by these processes the right to found their suits for redress upon the facts and judgments proved and entered in suits by the Government where the Government has upon its own initiative sued the combinations complained of and won its suit, and that the statute of limitations shall be suffered to run against such litigants only from the date of the conclusion of the Government's action. It is not fair that the private litigant should be obliged to set up and establish again the facts which the Government has proved. He can not afford, he has not the power, to make use of such processes of inquiry as the Government has command of. Thus shall individual justice be done while the processes of business are rectified and squared with the general conscience.

This bill provides that a final decree obtained by the United States in a suit to dissolve a corporation or unlawful combination may be offered in evidence in a suit brought by any individual for damages sustained under antitrust laws, and that such decree of judgment shall be conclusive evidence of the same facts, and be conclusive as to the same questions of law as between the parties in the original suit or proceeding. It also further provides to meet the situation, and the President's suggestion, that the statute of limitations shall be suspended in favor of private litigants who have sustained damage during the pendency of the suit or proceeding instituted in behalf of the United States. It is a provision of the bill that is designed to help the man of small means who has been wrongfully injured, and places in his hands the result brought about by the legal machinery of the Government.

#### EXCLUSIVE AND TYING CONTRACTS.

During the past 10 or 15 years there has grown up in business an ingenious system of exclusive or "tying" contracts, which in operation is so completely monopolistic as to leave but a very narrow and restricted field for operation, constantly becoming smaller and smaller and only occupied with the greatest courage and perseverance. A gentleman testified before our committee that one company manufacturing shoe machinery now supplies about 99 per cent or perhaps 99½ per cent of the machines that make welt shoes in this country. He was asked to put it the other way, and he said that 99 to 99½ per cent of the welt shoes made in the country were made upon machinery of this company, and of all the other shoes perhaps in as great a proportion, but of all machine-made shoes at least 95 to 98 per cent. Another company has destroyed practically all competition and acquired a virtual monopoly of all kodak films manufactured and sold in the United States. It was shown before the committee that an automobile manufacturing company capitalized for \$2,000,000 made a profit of \$25,000,000, net, on their investment in a single year. This profit was the profit of that \$2,000,000 supplemented by many times that many millions actually invested by local dealers in the machinery of that

company by so-called selling agencies throughout the country. The system under which these monopolies have been able to dominate absolutely the field has been brought about by these so-called exclusive agencies and "tying" contracts.

A competitor who desires to place his goods upon the market against any of these companies is prevented from so doing because the leases or contracts of the other companies restrict him from so doing. It has been contended that the justification for leases which are so made is that the leases are upon patented articles. Thus they are granted the privilege of combining various companies. With these restricted contracts in which one machine is tied to another all other machines are excluded because their machines are subjects of patents.

This monopoly has been built up by these "tying" contracts so that in order to get one machine one must take all of the essential machines, or practically all. Independent companies who have sought to enter the field have found that the markets have been preempted.

Mr. FESS. Would the gentleman yield?

Mr. MITCHELL. Yes.

Mr. FESS. Is there danger in the fact that one company supplies all the machinery, or is it in the manner in which it reached that place, or is it in both?

Mr. MITCHELL. It is in the manner.

Mr. FESS. You would not object to the one company doing it if it could be done legitimately?

Mr. MITCHELL. Not if it could be done legitimately. They would be able to meet these great companies in competition, but there is no field for them. The manufacturers do not want to break their contracts with these giant monopolies, because, if they should attempt to install machinery, their business might be jeopardized and all the machinery now leased by these giant monopolies would be removed from their places of business. No situation cries more urgently for relief than does this situation, and this bill seeks to prevent exclusive "tying" contracts that have brought about a monopoly, alike injurious to the small dealers, to the manufacturers, and grossly unfair to those who seek to enter the field of competition and to the millions of consumers.

This system of monopolistic contract was recognized in the State of Massachusetts as far back as 1907, and a statute was passed, and the first of its kind, I believe, in the country, which sought to meet this evil. It was a brave effort on the part of the State, but it did not prove successful, as evil practices continue to an even greater degree. It was recognized as an evil as far as back as 1901, when a great shoe and leather journal said:

The fact is the great strides made by American inventors and manufacturers of shoe machinery were made under competitive conditions. It has been so, and will be so again. As sure as day succeeds the night, the establishment of a virile opposition to the present machinery monopoly will bring to life new ideas and appliances in this field, as the showers and sunshine bring forth the flowers of the field.

It must be apparent that the sole object of these exclusive agencies, so called, is for the manufacturer to drive out competition and to establish a monopoly in the particular locality or community. This contract completely shuts out competition in the business of the local dealer with whom he makes it. The dealer, bound by the contract, becomes as anxious as the manufacturer to drive out competition in his locality. Vast sums of money are spent for advertising, and every means that it is possible to use is brought to the assistance of the local dealer to give him a complete monopoly of the commodity which he agrees to handle exclusively.

Who can question the damage and the detriment that such a system brings to the consumer and to the public generally?

This bill will stop that artificially created system of business and will open the competitive field where all may buy from whom and where they will, and the public shall have the benefit of this wholesome competition.

#### INTERLOCKING DIRECTORATES.

In recent years there has been a tremendous concentration of wealth in the hands of a few individuals and corporations, and this has developed and increased to such an extent as to challenge the imagination. It has been recognized by our party and by this Congress that one of the most effective ways to check this great evil, that such concentration may be further prevented, is to stop the interlocking of directorates of such corporations as banks and railroads, industrial, commercial, and public-service corporations.

It is inconceivable that any one man or any small, limited number of men are all who are qualified to serve upon boards of directors. This bill will prevent the interlocking of directorates. In the first instance, it provides that no person who is engaged as an individual or member of a partnership or as director or other officer of the corporation engaged in the busi-

ness of producing or selling equipment, material, or supplies, or in the construction or maintenance of railroads or other common carriers shall be eligible to serve on the board of an interstate railroad corporation.

It is further provided in this paragraph that no person who is engaged as an individual or who is a member of a partnership, or is a director or other officer of a corporation which is engaged in the conduct of a bank or trust company shall act as a director or other officer or employee of any common carrier for which he or such partnership or bank or trust company acts, either separately or in connection with others, as agents for or underwriter of the sale or disposal by such common carrier of issues or parts of issues of its securities, or from which he or such partnership or bank or trust company purchases, either separately or in connection with others, issues or parts of issues of securities of such common carriers.

The next paragraph of the bill deals with the eligibility of directors, officers and employees of banks, banking associations, and trust companies organized or operating under the laws of the United States, either of which has deposits, capital, surplus, or undivided profits aggregating more than \$2,500,000, and provides that no private banker or person who is a director in any bank or trust company organized and operating under the laws of a State having such aggregate amount of deposits, capital, surplus, and undivided profits shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States.

The last paragraph of the section deals with the eligibility of directors in industrial corporations engaged in commerce, and provides that no person at the same time shall be a director in any two or more corporations either of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, other than common carriers which are subject to the act to regulate commerce, if such corporations are or shall have been theretofore by virtue of their business and location of operation competitors, so that an elimination of competition by agreement between them would constitute a violation of any of the provisions of the antitrust laws. Mutual savings banks not having capital stock represented by shares are exempt from the provisions of this bill.

By means of the interlocking of directorates one man or group of men have been able to dominate and control a great number of corporations, to the advantage of those corporations and to the detriment of the small ones dependent upon them and to the injury of the public.

The evils of this system are so well known as to be commonly understood. This bill will wipe out these abuses, and, as has been well said, new men, new blood, new energy, and new enterprise will bring about an impetus to business that will redound to the benefit of the country. [Applause.]

#### DISTRIBUTION OF COAL AND OTHER MINE PRODUCTS.

There are various other provisions of great importance in this bill. I have not time on this floor at this time to dwell at length upon them. One provision of this bill makes it unlawful for the owner or operator of a mine or the controlling factor in the disposition of the product of the mine to refuse arbitrarily to sell such product to a responsible person who applies to purchase the same. God has placed the minerals, the coal, the iron, the copper in the bowels of the earth. They were placed there for the benefit of all mankind and not for the benefit and enrichment of those who have acquired title to the lands. This principle, new in the country, will free the dealer, manufacturer, and consumer from the monopolistic grip of the mine owner and give the great mass of our people the benefit and the use upon equal terms of those things that were always believed to be until recent years for the good of all. Coal, particularly, which is so necessary, must be sold to all purchasers alike and not to a monopoly, which has been charging what it saw fit. No preference or discrimination will be allowed, and coal and other necessary mine products so useful to all our people will be at the disposal of all alike. I believe this provision of the bill will prove of inestimable and lasting benefit to the great consuming public.

#### RIGHTS OF LABOR.

Our party, in the passage of legislation, has given to the great laboring masses of the country and to organized labor already a fuller measure of service than has any Congress in a generation. Since the enactment of the Sherman antitrust law, it is contended by the laboring people of the country that their organizations were in constant jeopardy and danger of destruction. Labor should not stand upon such uncertain ground. The brawn and the brain and the sinews of the great body of the people of this country have always been its greatest asset in times of peace as well as in times of war. Labor brought forth the riches from the mines, has hewed the forests, has made the

land to bloom and to blossom and bring forth its fruits; labor has manned the vessels, carried the products made by myriads of hands in factory, field, and forest to the marts of the world, and our party has ever recognized the country's greatest asset, the honest toiler and laborer. [Applause.] The right to organize and the legal recognition of such organizations should not be a debatable question.

In the last Congress a bill was passed through the House regulating the use of injunctions and also the procedure in contempt cases. These bills were incorporated in the bill now before the House for consideration, and I confidently believe that this Congress will write them into the law of the land.

#### CONCLUSION.

I believe that the country is quite familiar with the purpose and scope of the legislative program now about to be enacted. I have the disposition, but not the time, to discuss at length or to elaborate all of the beneficial features of this bill. I have taken occasion to refer to some of its most important provisions. Other provisions almost fully as important are embraced within it. Countless people are awaiting its passage and expect that under its operation a new era of industrial freedom will begin. That is the hope, the purpose, and the desire of those who stand sponsor for this legislation. Our party's record of achievement in the very brief time that it has been entrusted with power justifies the hope and confident expectation that the average man who only desires a free field and an equal opportunity will approve it as the greatest measure of industrial freedom that has been written on the statute books of our land; that the business man who desires an independence and a free field for his operations will find protection and ample opportunity here provided, and that the great public, the victims, helpless and unwilling as they have been, at the mercy of these extortionate organizations, will welcome and receive the bounteous blessings that I believe will flow freely through the land upon its passage. [Loud applause.]

Mr. WEBB. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. FERRIS, as Speaker pro tempore, having assumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and other bills under the special order of the House, and had come to no resolution thereon.

#### ADJOURNMENT.

Mr. WEBB. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 25 minutes p. m.) the House adjourned, under the order previously made, until to-morrow, Saturday, May 23, 1914, at 11 o'clock a. m.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. STOUT, from the Committee on the Public Lands, to which was referred the bill (S. 785) to relinquish, release, and quitclaim all right, title, and interest of the United States of America in and to certain lands in the State of Mississippi, reported the same without amendment, accompanied by a report (No. 701), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, to which was referred the joint resolution (H. J. Res. 264) authorizing the President to accept an invitation to participate in the Sixth International Congress of Chambers of Commerce and Commercial and Industrial Associations, reported the same with an amendment, accompanied by a report (No. 702), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. WITHERSPOON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 16514) to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps, reported the same without amendment, accompanied by

a report (No. 703), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 5148) for the reinstatement of Lieut. Col. Constantine Marrast Perkins to the active list of the Marine Corps, reported the same with amendment, accompanied by a report (No. 704), which said bill and report were referred to the Private Calendar.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 16606) granting a pension to John P. Simpson, and the same was referred to the Committee on Invalid Pensions.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. GOULDEN: A bill (H. R. 16756) to designate Flag Day, the 14th day of June in each year, a national holiday; to the Committee on the Judiciary.

By Mr. BRITTEN: A bill (H. R. 16757) to amend an act entitled "An act to recognize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States," approved March 3, 1899; to the Committee on Naval Affairs.

By Mr. DERSHEM: A bill (H. R. 16758) increasing the rate of pension to certain widow pensioners; to the Committee on Invalid Pensions.

By Mr. HOWARD: A bill (H. R. 16759) to require owners and lessees of amusement parks to furnish drinking water to patrons free of cost, etc.; to the Committee on the District of Columbia.

By Mr. POST: Joint resolution (H. J. Res. 289) relating to the awards and payments thereon in what is commonly known as the Plaza cases; to the Committee on Public Buildings and Grounds.

By Mr. GRIEST: Resolution (H. Res. 522) requesting the wearing of evergreen as an emblem on Decoration Day in memory of the honored dead of the Nation; to the Committee on the Judiciary.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 16760) granting an increase of pension to Nancy Jones; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 16761) granting a pension to Sarah C. Simmons; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16762) granting an increase of pension to Martha Broomfield; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16763) granting an increase of pension to Cora L. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16764) granting an increase of pension to Irene M. Bush; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16765) granting an increase of pension to Margaret E. Himoe; to the Committee on Invalid Pensions.

By Mr. BROWN of New York: A bill (H. R. 16766) granting a pension to Clifford A. Rowley; to the Committee on Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 16767) for the relief of Arthur A. and R. P. Powers; to the Committee on War Claims.

By Mr. CLANCY: A bill (H. R. 16768) granting an increase of pension to John W. Petley; to the Committee on Invalid Pensions.

By Mr. DONOVAN: A bill (H. R. 16769) granting an increase of pension to Mary J. Oviatt; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 16770) granting a pension to Emma Potts; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 16771) for the relief of the estate of Rev. Moses N. McCall; to the Committee on War Claims.

By Mr. KENNEDY of Rhode Island: A bill (H. R. 16772) granting an increase of pension to Harriet A. Parker; to the Committee on Invalid Pensions.

By Mr. LEWIS of Maryland: A bill (H. R. 16773) granting a pension to Katie R. Kennedy; to the Committee on Invalid Pensions.

By Mr. LOGUE: A bill (H. R. 16774) granting a pension to Eleanor T. Kelley; to the Committee on Pensions.

Also, a bill (H. R. 16775) granting a pension to Caroline Kierans; to the Committee on Pensions.

Also, a bill (H. R. 16776) granting a pension to Katharine H. Williams; to the Committee on Invalid Pensions.

By Mr. MAHER: A bill (H. R. 16777) for the relief of Amato Castellano, Libero Baranello, and Michele Baranello; to the Committee on Claims.

By Mr. O'SHAUNESSY: A bill (H. R. 16778) granting an increase of pension to Mary L. Lowe; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Mississippi: A bill (H. R. 16779) for the relief of the heirs of Jacob Kuykendall; to the Committee on Claims.

By Mr. TAGGART: A bill (H. R. 16780) granting an increase of pension to Andrew J. Hamilton; to the Committee on Invalid Pensions.

By Mr. WOODRUFF: A bill (H. R. 16781) reinstating Frank E. Sidman to his former rank and grade in the United States Army; to the Committee on Military Affairs.

By Mr. SPARKMAN: A bill (H. R. 16782) for the relief of M. P. King; to the Committee on Claims.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions of certain citizens of Nelsonville, Ohio; Easton, Ill.; Pratt, Kans.; Champaign, Ill.; Newark, Cal.; Oakdale, Ill.; Butte, Mont.; Cincinnati, Ohio; Wheeling, W. Va.; Chamberlain, S. Dak.; Monroe, Iowa; Englishtown, N. J.; Denver, Colo.; North Side, Pittsburgh, Pa.; Sulphur Springs, Mo.; Knoxville, Tenn.; Claysville, Pa.; Sioux City, Iowa; Artesian, S. Dak.; and Penrose, Colo., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), resolutions adopted by the Land Tax Party at a regular meeting of its executive committee held at New York, dealing with strike conditions existing in Colorado; to the Committee on the Judiciary.

By Mr. BAILEY: Petitions of D. J. Hershberger, Harvey Miller, S. S. Shaffer, W. R. Logsdon, E. White, H. E. Dunmiller, M. C. Close, J. C. Powell, Sam. Beltz, W. S. Bruner, M. A. Tipton, N. W. Coughenour, M. Miller, D. W. Sharp, P. Pisee, E. E. Adams, M. H. Kramer, B. V. Poole, William J. Sheavley, W. S. Madore, O. D. Blair, John H. Wagner, H. V. Evans, B. M. Baker, H. B. Altfarlins, James Gladpeltz, James Ahlen, John Wides, A. G. Cralibe, J. A. Blair, B. C. May, W. H. Solomon, T. A. Crownover, H. E. Sproul, E. W. Light, C. L. Pilcher, S. H. Burkett, W. F. Steckman, R. H. Miller, J. Luman, George Stiles, S. R. Kresge, J. J. Loveny, C. W. Raley, William Cook, E. E. Sbarger, William Sheible, R. C. Menges, J. E. Shaffer, W. F. Raley, S. C. Shaffer, J. H. Light, C. Horden, S. L. Rush, F. B. Hite, George McVicker, W. J. Sego, W. H. Sleaner, L. W. Hite, W. E. Shroger, W. W. Carpenter, R. C. Campbell, D. A. Crechner, William Mauger, T. W. Taylor, John Shroger, Harry Burnett, Theodore Cook, Z. Evans, and H. E. Close, all of Hyndman, Pa., favoring national prohibition; to the Committee on Rules.

Also, petitions of F. S. Shultz, J. R. Schlosser, D. J. Seaman, G. W. Seaman, J. C. Wuncler, H. W. Roush, John C. Poorman, J. S. Stull, W. W. Paul, Harry Warner, Andrew Riel, R. H. Costello, J. H. Whitely, Charles P. Kime, W. C. Machel, Alfred Loren, George W. Bergham, Edward Dobb, Leonard Sutter, and C. T. Settlemeyer, all of Summerhill, Pa., favoring national prohibition; to the Committee on Rules.

Also, petitions of J. W. Fouch, S. Millison, S. C. Miller, W. H. Bantly, Peter Shank, S. M. Varner, George F. Wright, James Wingard, J. W. Wright, F. L. Stutzman, B. F. Varner, C. J. Varner, J. C. Harbaugh, F. B. Homer, W. S. Meals, S. B. Beckdley, I. Kring, George Reminger, J. H. Trotter, G. E. Hoffman, Conrad Yehnert, J. H. Shervel, George Smith, E. W. Baumgardner, Lemuel Souel, and W. R. Fye, all of Salix, Pa., favoring national prohibition; to the Committee on Rules.

Also (by request), petitions of C. F. Wisler, J. A. Ake, John Fry, James Bechtel, D. M. Thompson, Charles Gunnell, F. P. Roger, V. H. Riley, J. R. Detwiler, W. C. Eastep, E. E. Borst, W. L. Gosnell, H. H. Patterson, J. E. Lang, Samuel Miller, Howard Preese, A. Riley, O. H. Lang, William Camerer, Walter Eastep, George R. Davis, R. M. Eastep, Owen Dapp, John Schultz, John Hoffner, R. P. Cunningham, S. D. Mingle, C. R. Saylor, J. R. Lyttle, L. E. Hetrick, S. F. Saylor, L. H. Isenberg, G. W. Aurandt, G. M. Saylor, A. C. Shultz, W. S. Suter, H. W. Hileman, and Daniel Aurandt, all voting citizens of Williams-

burg, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. BAKER: Petition of sundry citizens of Bridgeboro, New Gretna, and Vineland, all in the State of New Jersey, favoring national prohibition; to the Committee on Rules.

Also, petitions of sundry citizens of Burlington and Atlantic Counties, N. J., against national prohibition; to the Committee on Rules.

By Mr. BEAKES: Petition of 65 citizens of Spring Arbor, Mich., in favor of national prohibition; to the Committee on Rules.

By Mr. BRYAN: Petitions of the Ladies' Aid Society of the Methodist Episcopal Church, the Benevolent Club, and sundry citizens of Port Orchard, Wash., favoring national prohibition; to the Committee on Rules.

By Mr. BYRNS of Tennessee: Papers to accompany a bill for relief of Arthur A. and R. P. Powers; to the Committee on War Claims.

By Mr. CLANCY: Petitions of sundry citizens of the thirty-fifth New York congressional district, against national prohibition; to the Committee on Rules.

By Mr. COLLIER: Petitions of various business men of Vicksburg, Bolton, Edwards, Utica, Raymond, Jackson, Yazoo City, Brandon, Pelahatchee, Flora, Clinton, and Hazelhurst, all in the State of Mississippi, favoring House bill 5308, to tax mail-order houses; to the Committee on Ways and Means.

By Mr. CURRY: Petitions of 361 citizens of the third California congressional district, against national prohibition; to the Committee on Rules.

Also, petition of the Cornell Baptist Church, of Vallejo, Cal., praying for favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of the King's Daughters' Bible Class, of Stockton, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of Mr. and Mrs. L. A. Sprague, Mant Sprague, and Merle Sprague, of Stockton, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of the Westminster Presbyterian Church, of Sacramento, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of R. C. Menker and Edna S. Menker, of Yolo, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of 2 residents and citizens of Sacramento, Cal., protesting against the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of James Fabian and 3 other citizens and residents of Yolo, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of the Methodist Episcopal Church of Oak Park, Sacramento, Cal., with a membership of 150, praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

By Mr. DALE: Petition of the American Thread Co., of New York, against Edwards bill to prohibit importation of Egyptian cotton into the United States; to the Committee on Ways and Means.

Also, petitions of sundry citizens of Brooklyn, N. Y., against national prohibition; to the Committee on Rules.

By Mr. DERSHEM: Petitions of 80 citizens of Middleburg and Swineford, 53 citizens of Lewisburg, 20 citizens of Alexandria, and 190 citizens of Newport, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. DONOHUE: Petition of the Philadelphia Board of Trade, favoring Senate bill 3398, relative to the carrying of mail between the United States and foreign ports; to the Committee on the Post Office and Post Roads.

By Mr. DONOVAN: Petition of the Connecticut Piano Dealers' Association, favoring House bill 13305, the Stevens standard-price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petition of William Cannon, J. C. Quigley, T. C. Walsh, L. P. You, Clark Walton, Edw. O'Donnell, Eugene O'Donnell, H. A. Habighorst, Eugene Goodman, Martin Walsh, William S. Walsh, D. A. Walsh, William Werner, Ed Farrell, James Dwyer, James Britton, George Withum, L. C. Clark, Martin Reis, the R. W. Green Railway Supply Co., Carl Casper, Adolph Zika, the John Bardenheier Wine & Liquor Co., H. F.

Hesse, Fred H. Hoffman, W. B. Dalton, Ambros Schmid, Eugene Sappington, Charles Hendricks, Otto Reden, the Hewitt Co., Charles Speck, Messrs Walzer W. & Andrew Walz, Amsolm Scholz, H. F. Gieselmann, Al Scholz, Henry J. Stuckmeyer, J. Walter, Theo. Schultz, Otto V. Dettweiler, W. B. Dearborn, Dr. F. C. Esselbruegge, J. Simon & Sons, William A. Lessmann, Charles W. Bauer, Stephan Lukezig, John Sheehan, Thomas J. Brown, Charles Staneck, Christ Michl, F. Emil Schirmer, Henry Heet, H. Strodtman, Jos. G. Haus, Julius Kulage, Sigmund Keimel, Jacob Merkle, Herman H. Hatt, M. Carl, and B. Growe, all of St. Louis, Mo., against prohibition; to the Committee on Rules.

By Mr. FERGUSON: Petitions of Harmon Fox, of North Des Moines; of William Van Bruggen, of Maxwell; of the Max Mercantile Co., of Springer; of W. M. Anderson, of Willard; and of other merchants and banks of North Des Moines, Des Moines, Maxwell, Springer, and Willard, all in the State of New Mexico, favoring the enactment of legislation compelling mail-order houses to contribute their portion of funds in the development of local communities; to the Committee on Ways and Means.

Also, memorial of the Ladies of the Grand Army of the Republic, Abraham Lincoln Circle, No. 3, signed by Irene Severns, president; Mary E. Hopper, Marcha Weidinger, and Eva L. Hyre, all of Albuquerque, N. Mex., protesting against any change in the United States flag; to the Committee on Military Affairs.

Also, petition of Samuel Weimer, B. R. Deavours, Otis Weimer, and 15 other citizens of Buchanan, N. Mex., favoring national prohibition; to the Committee on Rules.

Also, memorial of W. D. Murray, R. W. Golding, J. W. Pennewill, and 22 other citizens of Silver City, N. Mex., protesting against national prohibition; to the Committee on Rules.

Also, petition of the First Baptist Church, by its pastor, Rev. J. Milton Harris, and 21 citizens, representing a membership of 96, of Las Vegas, N. Mex., favoring national prohibition; to the Committee on Rules.

By Mr. FRENCH: Petition of sundry citizens of Idaho Falls, Idaho, against national prohibition; to the Committee on Rules.

By Mr. GARDNER: Memorial of J. P. Mansur, of Haverhill, Mass., favoring an investigation of Dr. Cook's claim to the discovery of the North Pole; to the Committee on Rules.

By Mr. GRAHAM of Pennsylvania: Petition of various churches of Queenstown and Mohnton, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. HAMILTON of Michigan: Petitions of 190 citizens of Moline, 44 citizens of Hastings, 425 citizens of Wayland, 60 citizens of South Haven, 85 citizens of Buchanan, 500 citizens of Benton Harbor, 113 citizens of Burr Oak, 21 citizens of Coats Grove, the Woman's Christian Temperance Union and sundry citizens of Allegan and Allegan County, all in the State of Michigan, favoring national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Niles, Mich., against national prohibition; to the Committee on Rules.

By Mr. HAMMOND: Individual petitions of 30 citizens of Jackson, Minn., and 30 citizens of Mountain Lake, Minn., protesting against the enactment of legislation establishing national prohibition; to the Committee on Rules.

By Mr. HAWLEY: Petition of sundry citizens of Marion County, Oreg., against section 6 of House bill 12928, to amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. IGOE: Protests of Henry H. Ghoedeke, Philip Albrecht, August H. Wissmann, Henry Stuckenmeyer, Henry Ahring, Emil F. W. Eschmann, Julius Kulage, M. Esselbruegge, Earl H. Kahre, F. C. Esselbruegge, Louis Ruder, Peter Schwab, Jr., Amos H. Yohn, William Gruninger, Robert Nicholas, Fred Shalmser, J. Spitzfaden, Albert Bergans, John George Kiessling, William J. Ludwig, O. C. Paul, all of St. Louis, Mo., against pending prohibition resolutions and all similar measures; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petition of the City Council of Nome, Alaska, praying that transportation facilities be afforded the Kagourak mining district; to the Committee on the Territories.

Also, petition of sundry citizens of Tacoma, Wash., against national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petition of M. M. Chester, Felix Breault, Frederick Maiwald, W. M. Connell, and T. F. Connell, all of Pawtucket, R. I., against national prohibition; to the Committee on Rules.

Also, protests of Patrick McQuillan, Bernard Gavigan, Daniel Connors, Thomas C. Sullivan, Michael O'Donnell, John Morrison, J. Gindell, Franz Thummel, John Dolan, John Lynch,

Patrick F. Foy, James Heeney, Andrew Lindblad, Edward J. McCartney, Michael Sullivan, Patrick Brennan, Thomas Brennan, Edward C. Daley, Patrick Farrell, James C. Murringham, Patrick F. Maloney, N. Gingras, James J. Kilmurray, and John E. Foley, all of Pawtucket; Arthur C. Curran, Henry Laperche, Moise Coutu, John Greenwood, William Little, Herminigilde Ballard, Charles Coutu, and Joseph S. Conner, all of Central Falls; James J. Egan, Martin Feeney, Patrick McGinn, Owen F. Fayne, and Peter F. O'Conner, all of Providence, R. I.; and Ambrose J. Kinion, of Valley Falls, R. I.; also Jacob Horovitz, of Seekonk, Mass., against nation-wide prohibition; to the Committee on Rules.

By Mr. KIESS of Pennsylvania: Petitions from sundry citizens of the fifteenth Pennsylvania district, favoring national prohibition; to the Committee on Rules.

Also, evidence in support of House bill 16657, for the relief of Matilda M. Howard; to the Committee on Invalid Pensions.

By Mr. KINKEAD of New Jersey: Petition of sundry citizens of the eighth congressional district of New Jersey, against national prohibition; to the Committee on Rules.

By Mr. LANGHAM: Petition of sundry citizens of Queens-town, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. LIEB: Petitions of Fred H. Thienes, Joseph A. Folz, E. B. Dean, George Elmendorf, Taylor Ingram, Ed M. Doen, and Elmer C. Inkenbrandt, also of Cigar Makers' Union No. 54, signed by Ed A. Scheuer and Ernst Schellhouse, all of Evansville, Ind., protesting against national prohibition; to the Committee on Rules.

By Mr. LOBECK: Petitions of L. H. Peterson and 17 other citizens of Omaha, Nebr., and L. Rentfrou and 33 other citizens of Nebraska, against national prohibition; to the Committee on Rules.

Also, petition of 24 citizens and the Swedish Evangelical Mission Church, of Omaha, Nebr., favoring national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of H. Lobesky and other citizens of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. McLAUGHLIN: Memorial of the Cigarmakers' Union of Muskegon, Mich., protesting against adoption of Hobson resolution providing for national prohibition; to the Committee on Rules.

Also, memorial of Local No. 100, United Brotherhood of Carpenters and Joiners of America, of Muskegon, Mich., protesting against Hobson resolution providing for national prohibition; to the Committee on Rules.

By Mr. MAHER: Petition of the Bedford and Park Avenue Board of Trade, of Brooklyn, N. Y., favoring Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. MOORE: Petition of the Philadelphia Chamber of Commerce, favoring opening up of national-forest reservations for the people; to the Committee on the Public Lands.

By Mr. MOSS of Indiana: Petitions of 1,925 citizens of the fifth Indiana congressional district, against national prohibition; to the Committee on Rules.

By Mr. NEELY of West Virginia: Resolutions of the Wetzel County Bar Association, expressing confidence in Hon. A. G. Dayton, judge of the district court of the United States for the northern district of West Virginia; to the Committee on Rules.

By Mr. O'SHAUNESSY: Petitions of Stereotypers' Union No. 53, of East Providence, R. I., and the Hauley-Hoye Co., of Providence, R. I., against national prohibition; to the Committee on Rules.

Also, petition of A. L. Roche, of Albany, N. Y., favoring House bill 9292, to classify salaries of employees in Bureau of Animal Industry, Department of Agriculture; to the Committee on Agriculture.

Also, petition of Lyman B. Tefft, of Meshanticut Park, R. I., favoring national prohibition; to the Committee on Rules.

Also, petition of Auker Lodge, No. 105, S. B. of A., Providence, R. I., favoring erection of a memorial to John Ericsson; to the Committee on the Library.

Also, petitions of 142 citizens of Block Island, R. I., and the Mathewson Street Church, of Providence, R. I., favoring national prohibition; to the Committee on Rules.

By Mr. PAYNE: Petitions of sundry citizens of the thirty-sixth New York congressional district, against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Scipio, Venice, and Ledyard, and Rev. E. M. Cullinan, of Branchport, all in the State of New York, favoring national prohibition; to the Committee on Rules.

By Mr. RAKER: Letters from 34 citizens of the second congressional district of California, protesting against national prohibition; to the Committee on Rules.

By Mr. SCULLY: Petitions of sundry citizens of Dayton, Woodbridge, South River, Port Reading, Perth Amboy, and other citizens of New Jersey, against national prohibition; to the Committee on Rules.

Also, petition of the New Jersey conference, Epworth League, favoring national prohibition; to the Committee on Rules.

By Mr. TALCOTT of New York: Petitions of 5,183 citizens of New York State, against national prohibition; to the Committee on Rules.

By Mr. VARE: Resolution of 300 people adopted at a public meeting held at the Baptist Church, Broad and Riltner Streets, Philadelphia, Pa., in favor of national constitutional prohibition; to the Committee on Rules.

By Mr. WEAVER: Petitions of W. E. Martin and other citizens of Byars, W. J. Stevens and 80 other citizens of Lexington, and Alvah Antry and other citizens of McClain County, all in the State of Oklahoma, favoring national prohibition; to the Committee on Rules.

By Mr. WILLIS: Petition of Purity Circle, Ladies of the Grand Army of the Republic, of East Liverpool, Ohio, protesting against any change in the national flag; to the Committee on the Judiciary.

By Mr. WOODRUFF: Petitions of sundry citizens of Michigan, against national prohibition; to the Committee on Rules.

By Mr. YOUNG of North Dakota: Petitions of various business men of Lisbon, Abercrombie, and Leonard, all in the State of North Dakota, favoring House bill 5303, to tax mail-order houses; to the Committee on Ways and Means.

## SENATE.

SATURDAY, May 23, 1914.

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we look to Thee as the source and measure of the power that enters into so vast a civilization as we represent. We know that this power has not been found in the blind and heartless forces of nature, and can never be a mere expression of evolution in the line of the forces of a world like this. Sometime, somewhere, Thou hast breathed into them the forms of law and given to them life, and made them express the will and the power of the absolute and infinite God. We look to Thee for Thy guidance, that all our work begun, continued, and ended in Thee may accomplish Thy mighty purpose and bring to the earth the great design of our loving Father. We ask these things for Christ's sake. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. JAMES and by unanimous consent, the further reading was dispensed with and the Journal was approved.

Mr. McCUMBER. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	James	Perkins	Sutherland
Brady	Johnson	Pomerene	Swanson
Brandegee	Jones	Robinson	Thompson
Bristow	Kenyon	Shafroth	Thornton
Bryan	Kern	Sheppard	Tillman
Catron	Lane	Sherman	Townsend
Chamberlain	Lodge	Shively	Vardaman
Crawford	McCumber	Smith, Ariz.	Walsh
Cummins	Martin, Va.	Smith, Mich.	West
Gallinger	Martine, N. J.	Smith, S. C.	White
Gronna	Nelson	Smoot	Williams
Hitchcock	Overman	Sterling	
Hughes	Page	Stone	

Mr. THORNTON. I desire to announce the necessary absence of the junior Senator from New York [Mr. O'GORMAN]. I ask that this announcement may stand for the day.

Mr. SHAFROTH. I desire to announce the unavoidable absence of my colleague [Mr. THOMAS] and to state that he has a general pair with the senior Senator from New York [Mr. ROOR].

Mr. SHEPPARD. I am authorized to announce the unavoidable absence on public business of the Senator from West Virginia [Mr. CHILTON]. He is paired with the Senator from New Mexico [Mr. FALL].

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present. The presentation of petitions and memorials is in order.